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Security Council

Sixty-third year

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5904th meeting

Wednesday, 4 June 2008, 10 a.m.

New York

President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Roelants de Stappers
	Burkina Faso	Mr. Tiendrébéogo
	China	Ms. Chen Peijie
	Costa Rica	Mr. Weisleder
	Croatia	Mr. Jurica
	France	Mr. Lacroix
	Indonesia	Mr. Kleib
	Italy	Mr. Spatafora
	Libyan Arab Jamahiriya	Mr. Gouider
	Panama	Mr. Soler Torrijos
	Russian Federation	Mr. Churkin
	South Africa	Mr. Laher
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	Viet Nam	Mr. Hoang Chi Trung

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994

Letter dated 13 May 2008 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the Security Council (S/2008/326)

Letter dated 12 May 2008 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2008/322)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

08-36538 (E)

The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President: I should like to inform the Council that I have received letters from the representatives of Rwanda, Serbia and Slovenia in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned States took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend invitations under rule 39 of its provisional rules of procedure to Judge Fausto Pocar, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991; Judge Dennis Byron, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994; Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Security Council have before them documents S/2008/326, containing the text of a letter dated 13 May 2008 from the President of the International Tribunal for the Former Yugoslavia, and S/2008/322, containing the text of a letter dated 12 May 2008 from the President of the International Criminal Tribunal for Rwanda.

I also wish to draw the attention of the members to photocopies of a letter dated 3 June 2008 from the Secretary-General addressed to the President of the Security Council, which will be issued as a document of the Council under the symbol S/2008/356.

At this meeting, the Security Council will hear briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutors of the International Tribunals for the Former Yugoslavia and Rwanda.

I now give the floor to Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia.

Judge Pocar: I am honoured to present before the Security Council the ninth report of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), in accordance with Security Council resolution 1534 (2004). Before making my

remarks, I want to express on behalf of the Tribunal our deep gratitude for the crucial support for our work that has been provided by the United States. As we come closer to fulfilling our mandate, and in a climate of Tribunal fatigue, we more than ever need the continued backing of your country, Sir, as well as that of other members of the Security Council, so that we can fully and successfully achieve our mission.

In my address to the Council today, I want to reflect on the profound significance of the International Tribunals' mandates and on what lies ahead for all of us who care about the future and the lasting strength of international justice.

Fifteen years ago, the Security Council changed the course of history by creating the first truly international criminal jurisdiction. Aside from its revolutionary character in political and legal terms, this decision was fundamental. In depth, it expressed the international community's commitment to the deeply held and universal values of human dignity, justice and the rule of law.

We — and by that I mean not only the International Tribunal but also the international community that established it — are now at a crossroads. As in 1993, the decisions we make now will be crucial to the enduring success of international criminal justice.

Over the past 15 years, the Tribunal's jurisprudence has contributed to the exponential development of international criminal law and has in fact led to the creation of an entirely new body of international law, namely, international criminal procedure. Our jurisprudence is now widely used by other criminal jurisdictions, international, mixed and domestic. We have trained an entire generation of lawyers and judicial staff and developed new standards, practice and methodologies for the management of international criminal jurisdictions and of complex war crimes cases.

During these years, we also embarked on a long-haul effort to streamline our procedures, with a view to completing our mandate and ensuring compliance with the right of the accused to a fair and expeditious trial, one of the most fundamental components of due process. The result is that we are now able to simultaneously conduct eight trials involving 28 accused, the highest number since the Tribunal's inception. Seven appeals from judgement are pending, while only six accused are awaiting trial, and the trials of three of these accused will start in July and another one in October. Thus, except for the two accused Tolimir and Djordjevic, who were arrested in 2007 only, all of our trials will have commenced before the end of the year.

All other cases have been completed. Out of the 161 individuals indicted, 113 have had their proceedings terminated, and we expect that, by the end of 2009, all but three of the International Tribunal's pending trials will be completed. The remaining cases include those of the two accused who were arrested only last year. Had these fugitives been arrested at an earlier time, their cases could have been joined to the ongoing multi-accused trials, and we would have had almost all of our cases completed by 2009.

I should add that, while there is much that we have accomplished to expedite our cases, procedures can always be improved further. As Council members know, in the past few years we have adopted and implemented numerous measures in that regard, which are presented in the report. In order to carefully assess the impact of these measures and consider new creative approaches for the expeditious conduct of trial and appeal proceedings, I decided last April to reconstitute the Working Groups on Speeding up Trials and on Speeding up Appeals. We are also very grateful to the Council for the adoption of resolution 1800 (2008), which authorizes the assignment of up to four additional ad litem judges for the period until December 2008. This measure allowed us to commence new trials and make maximum use of permanent judges as well. Ad litem judges have taken on an onerous workload to ensure the expeditious conclusion of our mandate, and they make an outstanding contribution to the Tribunal's mission.

However, while we have clearly been continuing to make headway, and our achievement has surpassed by far that of any other international or hybrid court, I must emphasize that a number of challenges remain, and we clearly need the Council's help and support in order to address them. One of these hurdles concerns the status and benefits of the staff and judges of the Tribunal. Once again, I must state the obvious. Without these highly skilled and experienced people and their continued commitment to our institution, it will be far more difficult for the Tribunal to successfully fulfil its mandate. At this juncture, we need additional support from the Security Council and States Members of the

United Nations in developing other incentives to retain our best staff until we complete our work.

A positive resolution of the legal entitlement of the judges to receive full parity with the judges of the International Court of Justice is also called for. That principle is provided for under our Statute, which was adopted by the Council, and the independent consultant's study commissioned by the Secretary-General recommended a rectification of the current situation. I therefore again ask the Council to actively support measures to ensure the retention of our best staff and to address the inequality suffered by judges in the assessment of their pension benefits.

The Council will remember that, when the Tribunal was established in 1993, the conflict in the former Yugoslavia was still raging. The involvement of the international community in the resolution of the conflict and the decision to create the International Tribunal remain one of the shining examples of the international community's coming together and acting decisively. Too often, however, interest wanes once a country or region is not in the headlines anymore, and as years go by, political and financial support from international actors dries up. That often proves to be a fatal miscalculation and jeopardizes the slow and fragile progress accomplished towards reconciliation and the development of a society based on the rule of law.

That is the scenario that we are currently facing in the former Yugoslavia. It is undeniable that the fact that the Tribunal has been able to refer 13 accused to domestic courts in the region is a clear sign of the progress achieved since 1993. Currently, 10 accused have been transferred to Bosnia and Herzegovina, two accused have been transferred to the authorities of Croatia, and one accused has been transferred to Serbia. The War Crimes Section of the Court of Bosnia and Herzegovina has completed two cases, one is at the appeals stage and three trials are ongoing. At this point, we are still assessing the quality and effectiveness of those proceedings. We have also adopted amendments to our Rules of Procedure and Evidence in order to reinforce our partnership with domestic courts, in particular the courts in the former Yugoslavia. Rule 75(H) of the Rules now allows judges and parties in other jurisdictions to directly petition the International Tribunal for access to confidential material. That is another demonstration of our commitment to ensuring that those courts have adequate tools at their disposal to pursue justice for the victims of serious international crimes.

I must point out, however, that such progress remains extremely fragile. Cooperation between States of the region in the investigation and prosecution of alleged war criminals, such as the extradition of nationals who are alleged war criminals to another jurisdiction, is still problematic. On my visit to Bosnia and Herzegovina a few weeks ago, I saw for myself the extent of what remains to be done. There are still extreme needs with respect to detention facilities and the training of prison and police officers, for instance. I do not have to highlight the importance of enforcing sentences in a criminal justice system. Yet, less than two months after being convicted of the systematic rape, torture and enslavement of women and underage girls and sentenced to 20 years imprisonment, Radovan Stankovic, whose case was referred by the Tribunal to Bosnia and Herzegovina pursuant to Rule 11 bis, was able to escape from the Foča prison. A year later, he has not yet been apprehended. That is not only a stain on the reputation of the authorities of the Republika Srpska responsible; it also shows the scale of the problems we are facing. I continue to be gravely concerned about the lack of progress made by the relevant authorities in apprehending Stankovic and in prosecuting those who assisted in his escape at all levels. I also must convey to the Council that there is a real urgency in the need to improve the security of prison facilities in Bosnia and Herzegovina and throughout the region.

Finally, I take this opportunity to raise with the Council the issue of the presence of international staff in the State Court and Prosecutor's Office of Bosnia and Herzegovina. According to current arrangements, the mandate of that international staff will terminate at the end of 2009. During my visit to Bosnia and Herzegovina, various actors voiced concern about their impending departure, including victims' groups, which indicated that it would have a detrimental impact on the willingness of witnesses to testify. I therefore urge the international community to support an extension of the mandates of the international members of the State Court and of the Prosecutor's Office of Bosnia and Herzegovina.

As I have often recalled, the Tribunal was never expected to try all persons responsible for the atrocities committed during the conflict, and there are in fact thousands of war crimes cases pending before and

being processed by the courts of Bosnia and Herzegovina alone. In that perspective, one should in fact view the so-called completion strategy as a strategy devised to allow the continuation by domestic actors of those activities that were initiated by the ICTY, as mandated by the Security Council.

In other words, the international community's failure to support the institutions that are key to the development of the rule of law in the region will seriously undermine the Tribunal's legacy. It will also in effect diminish the impact of Member States' significant financial investment in international justice made through their contributions to the budget of the Tribunal. I therefore urge the international community to bolster its support for criminal justice institutions in the region.

Such efforts remain crucial to the development of a society based on the rule of law in the former Yugoslavia and to ensuring a return on the significant investment that the international community has made thus far.

One of the fundamental values reflected in the international community's decision to create the International Tribunal was the quest for justice and the fight against impunity. In that respect, I must once again reiterate that we will not have fully achieved our goal of rendering justice if the four remaining fugitives — Karadzic, Mladic, Zupljanin and Hadzic — are not arrested. The International Tribunal shall not close its doors before all of those fugitives are tried, and the Security Council should make clear that the trial of those fugitives by the international community does not hinge upon the International Tribunal's proposed completion strategy dates.

I therefore urge the international community to honour its responsibility to cooperate with the Tribunal and find those fugitives so that they will face justice. That is a legal obligation under the Tribunal's statute, which binds all States Members of the United Nations. It reflects the principle embraced by the Security Council 15 years ago that the impunity of those responsible for the most serious international crimes cannot be tolerated. I must also emphasize that the duty to cooperate goes well beyond the arrest of the remaining fugitives. It also entails the provision of assistance in all aspects of ongoing proceedings before the Tribunal, and there have been recent cases in which States have failed to fulfil that obligation. I must, in that respect, express my disappointment at the failure of Serbia to provide adequate and diligent assistance in serving a summons for a key witness in one of our ongoing trials.

Allow me finally to turn to the initiatives that we are taking with respect to our legacy and to ongoing discussions on residual mechanisms. As regards the latter, we submitted our final report on residual mechanisms in September 2007. Since then, we have met with the Security Council working group and have provided several clarifications in response to questions from working group members. We are very much looking forward to further discussions with a view to ensuring the adoption of the most effective and appropriate residual mechanisms.

Since my last presentation before the Council, we have also initiated a number of projects in collaboration with like-minded institutions. The objective pursued is to ensure that our methods, our practices and our case law will be fully accessible to future international courts and for the transfer of war crimes cases to domestic jurisdictions. With the assistance of the United Nations Interregional Crime and Justice Research Institute, we are putting together a compilation of our best practices that will cover all stages of the criminal process from investigations to the enforcement of sentences. We are also, in conjunction with the Organization for Security and Cooperation in Europe, assessing the impact of our outreach activities and training programmes with a view to identifying best practices and what remains to be achieved to guarantee the Tribunal's lasting impact on the work of domestic courts in the region of the former Yugoslavia. Our goal is to ensure that the legacy of the International Tribunal will be secured not only through proceedings carried out by domestic courts in the region, but worldwide by the courts and in the jurisprudence of all Member States. That is an integral part of the idea that, while the institution of the ICTY in its narrow understanding is completing its work, our mandate will in fact be continued by domestic actors, in particular in the former Yugoslavia.

In 1993, the proposal to establish an international criminal jurisdiction to enforce international criminal law would have remained mere wishful legal thinking without the decisiveness of the Council. By the same token, we will not be able to fully accomplish our mission without the Council's continued support. The success of the Tribunal's work is not only crucial for

peace and security in the former Yugoslavia; it will also set the stage for all present and future international criminal justice endeavours. I ask members to help ensure that the Tribunal will be provided with all support necessary to successfully fulfil its mandate and that they intensify their support to the region of the former Yugoslavia so that the justice systems of the countries concerned can continue the work started by the Tribunal. The Council's continued support to the domestic judiciaries is crucial to ensuring that the rule of law is embedded in those societies.

The President: I thank Judge Pocar for his briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I, too, am greatly honoured to present to the members of the Security Council the ninth report on the completion strategy of the International Criminal Tribunal for Rwanda (ICTR).

In 2003, the Security Council called on the Tribunal to

> "take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010" (*resolution 1503 (2003), para. 7*).

Since then, the Tribunal has substantially complied with its completion strategy while upholding trial fairness and the rights of the accused.

Of the 92 indictments issued by the Prosecutor, 41 have been disposed of. Of the remaining 51, four have been earmarked for referral and 13 accused are still at large. Despite the recent additional workload in connection with five accused, the evidence phase of all but four remaining cases will be completed by the end of 2008, with judgements expected at the latest in 2009.

The recent additional workload in connection with five accused includes an indictment for contempt of court, an accused whose referral to the Netherlands was revoked, and three accused who were recently arrested.

Both the contempt and the case for which referral was revoked have been scheduled for trial and judgement delivery in 2008. Because the three newly arrested are considered to be high-level accused, their trials ought to take place at the Tribunal. In view of the current workload and the occupancy rate of courtrooms, the scheduling of those three new single-accused cases will necessarily extend into next year. As a result, the evidence phase in four cases — Karemera and the three recently arrested fugitives — will spill over into 2009.

We have projected that seven permanent and eight ad litem judges could progressively dispose of those remaining cases during 2009. Two permanent and one ad litem judges will complete their assigned cases and resign by November 2008. No arrangements for their replacement are considered necessary due to the current and anticipated workload.

As members can see, those new developments will require some adjustment to the terms of service of the judges. It is my intention very soon to submit to the Presidents of the Council and the General Assembly a request for consideration of that matter.

In a few minutes, the Prosecutor of the ICTR will address this Council and request it to urge Member States to secure the arrest of the 13 remaining fugitives as soon as possible. The speed and efficiency with which that request will be executed will have an impact on the Tribunal's work. Another element that may have an impact on our work is the outcome of the five pending requests for referral that have not been put on our judicial calendar. Although a trial chamber rendered a decision on one of them last week, if an appeal is lodged, it will take three to four months before the Appeals Chamber will issue its ruling.

Maintaining high performance standards while achieving the goals set by the completion strategy does not come easily. There is a high turnover of staff, which requires constant training and reorganization. Decisions from the relevant United Nations organs in support of the management and maintenance of our resources are instrumental to the Tribunal's completion strategy. Once again, I ask the Council to authorize the Secretary-General to take all reasonable measures to ensure that the Tribunal is able to retain its experienced staff in order to achieve its mandate.

While on that subject, it would be remiss of me not to pay special tribute to the judges. Their commitment to the ideals of the Tribunal and their dedicated service have been exemplary and are essential to the attainment of our mandate. In

particular, I would like to acknowledge the ad litem judges who, despite the differences in their terms of engagement, have wholeheartedly undertaken the same workload and served for a similar duration as permanent judges.

During the reporting period, the Tribunal has benefited from the cooperation of many States. Rwanda in particular has continued to provide support in facilitating the presence of witnesses in Arusha and providing other essential services for the effective and expeditious management of the trials. The United Republic of Tanzania provided assistance in securing the arrest of Callixte Nzabonimana earlier this year. It must, however, be reported that the relocation of two acquitted persons has not yet been resolved, despite the strenuous efforts deployed by the Registrar to find a country of residence for them. That issue, as well as that of the relocation of those convicted persons who will complete the service of sentence, is increasingly becoming crucial as the Tribunal moves towards its completion. On behalf of the Tribunal, I respectfully call upon Member States to provide support and assistance in finding and imposing sustainable solutions.

The Tribunal has continued to work with the International Tribunal for the Former Yugoslavia on the development of arrangements for the performance of essential activities after closure of the Tribunals. It has conducted internal and external consultations with various stakeholders. The work of the Committee on Archives is progressing and is expected to produce recommendations shortly. The Tribunal has also continued to actively contribute to capacity-building in Rwanda and has delivered programmes that have benefited the judicial sector, civil society and academic institutions.

On behalf of the Tribunal, I would like to thank the Security Council, the Secretariat and the Members States for their steadfast support to the work of the Tribunal. The continued assistance of all Member States is necessary for the Tribunal to accomplish its mandate to bring justice and restore peace and security to Rwanda and the Great Lakes region. Its results will set an example and demonstrate that States are determined to fight against impunity for the most serious international crimes.

The President: I thank Judge Byron for his briefing.

I now give the floor to Mr. Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia.

Mr. Brammertz: I am honoured to appear before the Security Council again, for the first time in my capacity as Prosecutor of the International Tribunal for the Former Yugoslavia. I will brief the Council on the progress made in the implementation of the Tribunal's completion strategy since my predecessor's last report.

At the outset, I would like to say that it is a great privilege for me to have been entrusted with the mandate of Prosecutor of the International Tribunal, an institution which, despite great odds, has succeeded in bringing to justice many of those who bear the greatest responsibility for atrocities committed in the former Yugoslavia. That success is the result of the combined efforts of my predecessors, the Tribunal's judges, its dedicated staff and the courage of witnesses who have come forward to testify. Still, none of that would have been possible without the assistance of States, international organizations and the endless support of those active in civil society.

I will now address developments in the following areas: the ongoing and pending judicial proceedings, interaction with prosecutors in the region, and the cooperation of States.

The Office of the Prosecutor is fully committed to completing all trials and appeals in accordance with its mandate. Of the 28 individuals on trial, only eight are in the prosecution phase of the case. There have been no arrests during the reporting period and four accused are still at large.

Over the past six months, the Office of the Prosecutor has taken a number of steps to reduce the time necessary to present the prosecution case in ongoing and upcoming trials. We are firmly engaged in finding ways to expedite proceedings without diminishing the prosecution's case. My Office is actively and constructively working with the judges in exploring ways to speed up proceedings. We have substantially reduced the length of time in our cases by using more written evidence instead of live witness testimony. We also continue to look to improve the transition from pre-trial to trial and to have all issues decided pre-trial except those involving live witness testimony. The objective of those measures is to achieve greater efficiency in the presentation of

necessary evidence while proving the essential nature and scope of each accused's responsibility.

I am, however, greatly concerned with regard to the problems of witness protection, which directly affect our ability to present a case in an effective and timely manner. Interference with witnesses, particularly in the form of witness intimidation, has become increasingly frequent and problematic. Witnesses have been intimidated and threatened and, as a result, refused to testify or reversed their testimony. Where appropriate, we have addressed those concerns together with the Registry and Chambers. We have also conducted formal investigations, some of which have resulted in indictments charging individuals with contempt of the Tribunal. Unfortunately, despite those efforts, the problems are not abating.

That is why I ask States in which witnesses reside to assist the International Tribunal by ensuring that necessary measures are taken to avoid any witness interference. International trials will succeed only if witnesses are protected from intimidation and threats.

As the International Tribunal nears the completion of its mandate, cooperation between my Office and national judicial and prosecution authorities has become even more important and is now a focal point of our activities. Their roles are crucial to the strengthening of justice in the former Yugoslavia.

With the assistance of the Organization for Security and Cooperation in Europe (OSCE), we continue to monitor all cases transferred pursuant to our Rules of Procedure and Evidence. At the same time, we remain actively involved in transferring investigation files and other material, including evidence that is requested by national prosecutors. We work closely with national judicial and prosecution authorities from the former Yugoslavia and assist them so that they can continue to effectively prosecute war crimes cases.

Since I took office, I have had several fruitful meetings with State and war crimes prosecutors from the region. Last month I attended a successful conference in Croatia with prosecutors from the region, which resulted in a renewed commitment from all participants to intensify national war crimes prosecutions and to strengthen cooperation among themselves.

I am determined to reinforce professional ties with national prosecutors and develop true partnerships. I will also continue to explore further methods of cooperation, such as engaging prosecutors and experts from the region and our office to facilitate the sharing of expertise and to provide practical hands on training. I kindly ask the international community to support such initiatives.

International support to national courts in the former Yugoslavia will remain crucial in the coming months and years. In this respect, I am very concerned that, as the President of the Tribunal has already mentioned, future funding for the War Crimes Department in the Office of the Prosecutor of Bosnia and Herzegovina may be reduced and that international prosecutors may leave, thereby jeopardizing the work of the State court. I hope funds will be made available, as I believe that the role of the War Crimes Prosecutor and Chamber is crucial in strengthening Bosnia and Herzegovina's still-fragile justice system.

In order to succeed in fulfilling our mandate, we still rely heavily on cooperation from the States of the former Yugoslavia and the support of the international community. Since I took office, I have repeatedly called upon those States to fully cooperate with my Office. I have specifically requested access to archives and documents and the arrest and transfer of the remaining fugitives.

Although Croatia has, in the past six months, made available certain archival materials, a number of important requests for key documents required for ongoing trials are still pending. As these trials are in progress, it is crucial that the requested documents be made available immediately.

Bosnia and Herzegovina has generally responded in a satisfactory way to requests for assistance. We would, however, like to encourage the authorities in Bosnia and Herzegovina to adopt a more proactive approach against those helping the fugitives evade justice.

Serbia has provided adequate responses to number of requests for assistance. However, significant obstacles remain in relation to access to some key archives and documents for ongoing trials and those that are about to begin in the very near future. In the coming weeks, teams from my Office will meet again with senior officials in Belgrade to continue our efforts to obtain these documents.

The arrest of fugitives remains a key challenge. We strongly believe that the remaining fugitives — Ratko Mladic, Radovan Karadzic, Stojan Zupljanin and Goran Hadzic — are within reach of the authorities in Serbia and that the Serbian authorities can do more to locate and arrest them. With the exception of a genuine but, alas, failed attempt to arrest Mr. Zupljanin, there has been no notable progress in this critical area of cooperation during the past six months. One of the reasons given by the authorities for this lack of cooperation is the political uncertainty in which Serbia has found itself since the beginning of the year. It is my hope that the new Government will empower the security services and the Office of the War Crimes Prosecutor to search for, arrest and transfer the remaining fugitives.

I ask the Council to endorse my call for international support and full cooperation from the international community and from the States of the former Yugoslavia. This message is important, especially as we near the completion of ongoing trials.

Six months ago, I joined an institution that is well on its way to fulfilling its mandate. As an outside observer, I was impressed by the International Tribunal's achievements. Now that I am in-post, I witness every day the commitment and dedication of our staff members. I therefore ask the Council to support initiatives and measures to retain the expert staff the Tribunal needs in order to conclude its work.

We are committed to fulfil our mandate. At the same time, I cannot think of a situation in which the Tribunal, having been established to try those most responsible for atrocious crimes, will close its doors without bringing to justice all remaining fugitives. During my trip to Bosnia and Herzegovina last March, I met with a number of victims' associations. After all these years, their demands for justice are unwavering — and unanswered in respect of the fugitives. I was impressed by the courage of the survivors and the clarity of their message that the accused must be tried by the International Tribunal. They have never given up, and neither can we. We owe them the justice that was promised 15 years ago, when the Tribunal was set up.

I thank the Council for its support to the Office of the Prosecutor. We continue to rely on it.

The President: I thank Prosecutor Brammertz for his briefing.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: This year is an important landmark in the completion strategy of the International Criminal Tribunal for Rwanda (ICTR), having regard to resolution 1503 (2003), adopted by the Security Council.

Although a significant number of accused persons will have been brought to account before the ICTR by the end of the year for their role in the commission of serious violations of international humanitarian law in Rwanda, and although many of the cases currently on trial will have been concluded, it is now evident that there will still be pending trial activity at the ICTR by the end of 2008.

This situation has arisen essentially because of the three new arrests, of Callixte Nzabominana, Dominique Ntawukuriryayo and Augustin Ngibatware, respectively effected in the Democratic Republic of the Congo, in France and in Germany. All these three accused are considered of such a high level as to require trial at the ICTR rather than transfer to a national jurisdiction. I join the President of the ICTR, Judge Byron, in assuring the Council that the tribunal has indeed spared no effort over the years in taking all possible measures to meet the target date set by it in resolution 1503 (2003) and that, due to these new circumstances, an extension of the trial mandate of the ICTR to 2009 needs to be granted.

Much has been accomplished in the past decade in combating impunity by bringing to account before the tribunals those persons suspected of committing these serious violations. The gains of the past and the need for a proper completion would be best sustained by permitting the ICTR to continue with trial activity beyond the end of 2008 in order to conclude pending cases.

Although the Trial Chamber has recently rejected one of the five requests by the Prosecutor for the referral of the case of an indictee to Rwanda for trial — that was in the case of *Prosecutor vs. Yussuf Munyakazi* — the final decision on these requests may well come only later in the year, as the Prosecutor has decided to file an appeal against this decision with the Appeals Chamber of the ICTR. In the event that referral of these cases to Rwanda turns out to be impossible, these five cases would constitute additional

work in 2009 for the ICTR, given that so far no country other than Rwanda has indicated a desire to receive any of these cases.

The cases of the fugitive indictees would pose a special problem as our rules do not permit trials in absentia. On the other hand, an acceptable national jurisdiction cannot so far be found to receive these cases.

The Tracking Team of the Office of the Prosecutor continues to prioritize its activities and intensify its efforts to secure the arrests of more fugitives. The number of fugitives currently stands at 13, including Félicien Kabuga and a number of other persons who, because of their status or level of involvement in the genocide, have been earmarked for trial in the ICTR. With the cooperation of Member States, we hope to be able to effect more arrests of such figures in the months that lie ahead.

The case of Félicien Kabuga has been a constant issue in the Council. Indeed, in resolution 1503 (2003), the Council called on all States — but especially Kenya, the Democratic Republic of the Congo and the Congo — to intensify cooperation with and render all necessary assistance to the ICTR in connection with efforts to bring Félicien Kabuga and all other such indictees to the ICTR.

For the past three years, my Office has been engaged with the Government of Kenya in the Kabuga case, largely through the joint Kenya-ICTR task force. The task force has now submitted three reports to the ICTR and to the Government of Kenya. Those reports indicate that there is documentary evidence of Kabuga's entry into Kenya in 1994 and of the grant of a resident visa to him, as well as a business permit in 1995. Since then, there have been several reported sightings of him in Kenya. On two specific occasions, in 1997 and 2005, efforts to arrest him in Kenya were thwarted. There is no record or other indication of his departure from the territory of Kenya.

According to the task force, Kabuga is also reported to have interests in property and businesses in Kenya, either in his own name or jointly with family members or with business associates. There is evidence that he holds, or has held, accounts with banks in Kenya. His involvement and activities in Kenya are therefore very well documented.

Although in May 2008, following my request to the Government of Kenya for the implementation of the recommendations of the task force, the Government obtained a High Court order freezing one such property belonging to Kabuga, nothing else appears to have been done for the implementation of the rest of the recommendations of the task force and for the discharge of Kenya's responsibility in this case.

Kenya must now proceed to maintain an active search for the fugitive within its territory, with a view to arresting him and transferring him to the ICTR or establishing his departure from its territory. Kenya should take steps, as other Member States have done, to freeze the bank accounts of the fugitive that may still be operational and to provide a report on all such accounts and others that may have been closed. It should also undertake serious and conclusive investigations into the reported interests of Kabuga in the businesses and companies specified in the report and, if those are confirmed, take the necessary measures to freeze those assets as well. In short, Kenya has legal obligations of cooperation that the Security Council should request it to fulfil urgently. As the President indicated at the beginning of this meeting, members of the Council have before them a letter (S/2008/356) in which the Secretary-General draws this matter to their attention. Much of the past three years has been devoted to investigations of Kabuga's activities and his involvement with the country. The implementation of the recommendations of the joint task force is now overdue.

A number of fugitives, including some of the high-level indictees earmarked for trial at the ICTR, have also been located in the Democratic Republic of the Congo by the Tracking Team of the Office of the Prosecutor. The ICTR generally and its Tracking Team in particular have not had the benefit of much cooperation from the authorities in the Democratic Republic of the Congo in effecting the arrest of those fugitives. Last week, however, the Government of the Democratic Republic of the Congo indicated its readiness to participate in a tripartite meeting with the United Nations Organization Mission in the Democratic Republic of the Congo and the ICTR to discuss this matter. We welcome that development and look forward to the meeting proposed for later this month. Nonetheless, I consider it necessary for the Security Council to reiterate to the Democratic

Republic of the Congo its call for cooperation with the ICTR.

The Office of the Prosecutor continues to receive and to respond to requests for mutual legal assistance from Member States that are investigating, prosecuting or handling extradition requests for fugitives wanted for international crimes committed in Rwanda. Many such States are now conducting those activities in their respective countries, with a view to extraditing them to Rwanda or prosecuting them nationally. The Office of the Prosecutor has the largest electronic database of evidence on the crimes committed in Rwanda. That database should be an invaluable tool to national investigating and prosecuting authorities of Member States, now as well as after the closure of the Tribunal, for as long as those fugitives remain at large.

Consistent with its mandate and its obligation to fight the culture of impunity, the Office of the Prosecutor will host a forum later this year for selected national prosecuting authorities to discuss ways of enhancing cooperation with them and ensuring their continued access to our database, both now and after the closure of the Tribunal. As part of our consultative process, early next year, we shall also host the fifth annual colloquium for international prosecutors, which will focus on the challenges of completion and the orderly and proper closure of the ad hoc Tribunals.

Over the past year, we have also been actively involved in capacity-building initiatives at the request of the National Prosecution Service in Rwanda. With generous funding from the European Union and the World Bank, the Office of the Prosecutor has held a series of training seminars and workshops for Rwandan prosecutors, investigators and information managers on best practices in the investigation and prosecution of international crimes, as well as on information and evidence management.

In my last report to the Council, I indicated that there had been some progress in the investigation of allegations against the members of the Rwanda Patriotic Front (RPF). Rwanda has cooperated with my Office in that process, as requested by the Council. Together, we have been able to establish a prima facie case that, on 5 June 1994, RPF soldiers killed 13 clergymen, including five Roman Catholic bishops and two other civilians, at the Kabgayi Parish in Gitarama. Some of the perpetrators of that crime are reported to have died, but others are now serving within the Rwandan Army. Following inquiries, the Rwanda Prosecutor General communicated to me his decision to shortly indict and prosecute four serving senior military officers in the Rwandan Army for murder and complicity to murder as war crimes in connection with that incident.

As the Council knows, Rwanda shares concurrent jurisdiction with the ICTR over such offences. I have therefore decided to hold in abeyance further action on my part, on the clear understanding that any such prosecutions in and by Rwanda should be effective, expeditious, fair and open to the public. My Office will also monitor those proceedings. The prosecutions in Rwanda will of course be without prejudice to the primacy of the ICTR's jurisdiction over those crimes. I hope that the prosecutions will be conducted by Rwanda in a manner that will effectively contribute to reconciliation in that country.

The anticipated reduction in the workload of the Tribunal by the end of 2008 is reflected in the process of downsizing through the reduction of resources, both human and material. That process started within the Office of the Prosecutor towards the end of 2007 with the abolition of a number of posts within the Investigations Division in Kigali. It is expected to continue and intensify in the course of the year. It is a process that is likely to be a difficult one emotionally and in many other respects, both for the staff concerned and for the ICTR. We shall do our utmost to manage the process fairly and compassionately. The closure of the Tribunals will create a large pool of well-tried staff, experienced in the investigation and prosecution of crime, whom I believe the United Nations can rely on and should do its utmost to retain and utilize in other activities.

I would like to thank the members of the Council, the Secretary-General and the Secretariat, as well as Member States, for their support to, and cooperation with, the ICTR.

The President: I thank Prosecutor Jallow for his briefing.

I shall now give the floor to the members of the Council.

Mr. Gouider (Libyan Arab Jamahiriya) (*spoke in Arabic*): At the outset, I should like to welcome and thank the Presidents of the two Tribunals, Judges Pocar and Byron, and the Prosecutors, Mr. Brammertz and

Mr. Jallow, not only for their comprehensive briefings to us but also for the outstanding work they and their staff have carried out.

We know very well that, in 2003 and 2004, the Security Council determined the time frame for the completion strategy for the two Tribunals. It called for a commitment to this framework, urged States to cooperate with the two International Tribunals and underscored the development of the judicial capacities of the national jurisdictions concerned.

The assessments before us, and particularly the valuable briefings that we have heard today, testify to the evident progress made in implementing what has been decided, particularly the accomplishments of the Tribunals in the many tasks involved in the implementation of their completion strategies. There have been numerous acquittals, convictions and appeals, and there are many ongoing trials in which judgement has yet to be delivered.

Despite this progress, the inability to arrest some of the fugitive indictees and the resulting impunity are a source of concern and preoccupation to us. Yet this unfortunate reality, for which we see no end, cannot be a reason for not implementing the completion strategies as expeditiously as possible, within the prescribed time frames. Such implementation requires, in addition to the efforts of the two Tribunals and their staff, the continued provision of any financial and human resources support that the two Tribunals require to complete their work.

In our opinion, this implementation would be facilitated if as many possible pending cases as possible are referred to courts of national jurisdiction, once those courts' commitment to the principles and procedures of fair trials has been verified. Such an approach would definitely reduce the volume of work of the two Tribunals. But every effort must be made to observe the principle of equality, uphold the rule of law in the concerned States and ensure the protection of archives whose importance in the history of these States and their ongoing reconciliation processes is even greater than that of the archives of ordinary judicial proceedings.

Circumstances have changed since the establishment of the two Tribunals as non-permanent jurisdictions at the end of the last century. Judicial institutions and legislation have been developed in States where war crimes have been committed, and where the evidence and witnesses are available, which would allow these States to deal with pending cases with the assistance of the two Tribunals within the framework of their completion strategies and with the support of the international community.

Our keen interest in the expeditious implementation of the completion strategies stems from our desire to decide at an early date on the legacies of the two Tribunals and the residual mechanisms, once the completion strategies are over. Ambassador Verbeke's statement during Council consultations last month dealt with the various aspects of this issue. We have nothing to add to it today, except to voice our appreciation for the impressive work accomplished by the two Tribunals, their respective Presidents and the Working Group of the Security Council.

Mr. Weisleder (Costa Rica) (*spoke in Spanish*): I wish to start by thanking the President for having convened this important meeting. I would like to state that we are happy to see here today Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR). We would also like to welcome Mr. Serge Brammertz, who is reporting to the Council for the first time in his new post, and Mr. Hassan Bubacar Jallow, both of whom are Prosecutors of these Tribunals.

Costa Rica commends the highly informative and detailed substance of the briefings on the status of progress with respect to the completion strategies, in accordance with resolutions 1503 (2003) and 1534 (2004). We were glad to hear from the representatives of the two Tribunals that the strategies are on track to meet the deadlines. That being said, we also noted the elements that, in the opinion of the Presidents, may have delayed some of the trials.

At this time, as we get closer to the deadlines established by the Council, my delegation would like to point out that it is absolutely imperative that the residual mechanisms which the Security Council identifies respect the fundamental rights of the accused, for example, the provisions on the review of sentences and a system that allows for the monitoring of the victim and witness protection programmes; and it is vital that the justice system continue to be fair, expeditious and effective.

Costa Rica calls on the States concerned to facilitate the work of the Tribunals. We would urge the international community to step up its cooperation with the International Tribunals. That means, in particular, providing information to identify the whereabouts of fugitives, in accordance with the reports. In the case of the International Criminal Tribunal for the Former Yugoslavia, there are still four fugitives, including Radovan Karadzic and Ratko Mladic. With regard to the International Criminal Tribunal for Rwanda presumed, there are still 13 persons who are sought, among them Félicien Kabuga.

The most cruel and inhuman of crimes, such as genocide, war crimes and crimes against humanity, should not go unpunished. Costa Rica urges the international community to provide all the information at their disposal in order to gather enough data to locate the fugitives from both Tribunals and bring them before international justice as soon as possible.

We are, of course, committed to working within the Council and the United Nations as a whole in order to improve the structural and institutional conditions that have been mentioned as factors that contribute to creating the climate of violence and intolerance in which those crimes, which are unjustified from any point of view, take place.

Costa Rica would like to conclude by recalling that in July the International Criminal Court will be celebrating the tenth anniversary of the Rome Statute, which established it. For that reason, my delegation would once again like to call for efforts to strengthen our shared sense of justice, and we urge States to ratify the Rome Statute and join the 106 States that have already done so. Through the universal ratification of the Statute and acceptance of complementary jurisdiction, we will continue to ensure that individual perpetrators of genocide, crimes against humanity and war crimes will never again enjoy impunity.

Ms. Chen Peijie (China) (*spoke in Chinese*): Allow me to begin by thanking President Pocar, Prosecutor Brammertz, President Byron and Prosecutor Jallow for their respective briefings on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). We welcome them to New York. In particular, we welcome Mr. Brammertz, who is participating in a Council meeting for the first time in his capacity as Prosecutor of the ICTY.

We have taken note of the continuing progress in the work of the two Tribunals, and we recognize their efforts towards implementing the completion strategies. As the completion strategy deadlines are drawing near, we expect the Tribunals to make a greater effort to intensify their work all areas. In that connection, I wish to elaborate on the following points.

First, since the introduction of the completion strategies, the Tribunals have been working hard to improve their methods of work and corresponding working procedures in order to speed up progress. We are already fully cognizant of that, and we hope that they will build on that foundation and continue to explore the possibility and feasibility of improving their working methods and making full use of the available time, space and human resources with a view to conducting highly efficient trials and avoiding, as best they can, any kind of delay, so as to bring the cases to closure on schedule.

Secondly, in recent years, the Tribunals have been treating the referral of cases to countries in their respective regions as one of the core elements of the completion strategy. We hope that they will continue to give the relevant regional countries greater confidence and more opportunities, step up cooperation with their judicial organs and try their best to expand cooperation in that area. They should encourage and support new approaches to referrals and to the transfer of fugitives. We appeal to all countries concerned make efforts to facilitate the maximum number possible of referrals of cases from the Tribunals in a systematic and expeditious manner.

Thirdly, a study of the Tribunal's legacy and residual responsibilities is becoming an increasingly pressing issue. Since the Tribunals' submission of their September 2007 reports, they have, in the first half of this year, at the request of the Council's informal working group on the Tribunals, furnished opinions on these relevant questions on many occasions. We recognize their active participation in the study of these issues.

Meanwhile, we also believe that the question of legacy and residual responsibilities should be studied and addressed, using an objective and realistic approach. In that process, it would be inappropriate to avoid addressing existing problems and the degree of difficulty in the work of the Tribunals, or on the other hand to exaggerate the difficulty of the problems

related to their work in terms of workload. At the same time, it would also be inappropriate to prejudge any possible solution. It is therefore imperative to observe the timetables for the completion strategy and prudently seek feasible, economical, appropriate and sound solutions.

We have consistently believed that the principles and timetables defined by the Security Council should be observed in earnest. The two Tribunals should continue to work to that end. In the second half of this year, we expect the Tribunals to take bigger steps towards implementing their completion strategies and to share with us the relevant information in their year-end reports. We also appeal to the countries concerned to continue to intensify their cooperation with the Tribunals and, through joint efforts, thus realize our common goals.

Mr. Churkin (Russian Federation) (*spoke in Russian*): Allow me first of all to thank the leadership of both Tribunals for their briefings and for the reports submitted to the Security Council on the implementation of the completion strategies for the work of those two judicial bodies. Unfortunately, the information to be found in the reports is cause for serious concern.

The Tribunals, in essence, state their inability to implement in a timely manner the resolutions of the Security Council adopted in accordance with Chapter VII of the Charter. The International Criminal Tribunal for the Former Yugoslavia (ICTY), for example, plans to conclude cases in the first instance only by 2010, whereas this was to have already been done by the beginning of the current. We believe that the Security Council, which established the Tribunals, must actively address the implementation of the completion strategies and give the Tribunals clear guidance for further action.

To that end, we propose the adoption of a Council decision to the effect that the Tribunals can begin no judicial proceedings in the first instance after 1 January 2009. In that way, the cases of all those individuals, both those under the jurisdiction of the Tribunal and those being sought, for whom there have not been any judicial proceedings by the end of this year would be referred to national jurisdictions. The indictments of those individuals who are referred to by name in Security Council resolutions can come under the jurisdiction of the international residual mechanism that will be established in the near future.

In that same context, we should solve the issue of the extension of the functions of the judges themselves. We trust that such a decision will fully comply with the criteria established by the Council, pursuant to which the Tribunals are to conduct proceedings only with regard to high-ranking leaders suspected of bearing major responsibility for committing crimes falling under the jurisdiction of the Tribunals.

It has been 14 years since the creation of the Tribunals. In Rwanda and in those States that have emerged from the territory of the former Yugoslavia, we now see functioning, independent court systems. We see no basis for denying the sovereign right of those States to conduct national judicial proceedings, especially since those countries have stated their readiness independently to try those accused in the ICTY and the International Criminal Tribunal for Rwanda (ICTR).

With specific reference to the reports of the Tribunals, I would like to point out the following. Regarding the ICTR, we see at least some movement in compliance with the key element of the completion strategy — the referral of cases to national jurisdiction. Hearings are currently being held on four such cases and there are plans to transfer nine more accused who are fugitives from justice.

We consider the situation with respect to the ICTY to be unsatisfactory. From that body's report it is generally difficult to glean any coherent information on referrals to national courts. The previous report of November 2007 stated that, from the time of the adoption of the rules of referral of cases, the Prosecutor had submitted 14 motions with regard to 22 accused. The current report refers to 22 motions. The question therefore arises: Over the past half-year period, has the Prosecutor submitted eight more motions and, if so, where is the information on those? We also draw attention to the information that was distributed by the Serbian side considering cooperation with the Tribunal, which raises doubts as to the objectivity of the various sections of the report ICTY. In general, we can now see that the ICTY has not fulfilled the completion strategy on time, and the report gives no convincing reasons in justification of that.

I would also like to refer to the scandalous circumstances surrounding the acquittal of one of the

leaders of the Kosovo Liberation Army, the former Prime Minister of the province Ramush Haradinaj. The judges referred to the lack of evidence on any single charge of the many dozens brought against him, while issuing a statement on the unprecedented pressure placed on witnesses in that matter. For the first time in the history of international jurisdiction, witnesses have been subject to blatant blackmail and intimidation, while some have been done away with physically. It is amazing that such actions have been carried out in an atmosphere of complete impunity in spite of the international presence in Kosovo.

The Russian Federation has repeatedly drawn the attention of the Council to that unacceptable situation and called for decisive action in investigating the deaths of those people and for ensuring a more effective witness protection regime in Kosovo. Unfortunately, for various reasons our appeals have been blocked. The Haradinaj case has become yet another stain on the ICTY's reputation.

We expect from the Tribunal a detailed accounting of those steps that have been taken in the wake of the shocking revelations made by the former Prosecutor of the ICTY, Carla Del Ponte, with regard to facts on which the Tribunal has remained silent until recently. The current report represents more of the same. The comments that we heard at the ICTY's press briefing on that issue on 16 April can hardly be called acceptable. One gets the impression that whereas serious accusations, such as that concerning the numerous cases of forced removal of human organs, are simply disregarded by the Tribunal on a variety of pretexts, it stresses the urgency of concluding its work on schedule, the supposed lack of substantive information, and so on.

We believe that the ICTY has the duty to investigate those facts. When they are verified, we can then think about how the accountability of those who are accused of that outrageous crime can be included in the completion strategy of the Tribunals' work.

Mr. Tiendrébéogo (Burkina Faso) (*spoke in French*): At the outset, I should like to thank Presidents Byron and Pocar, as well as Prosecutors Brammertz and Jallow, for their briefings. My delegation has taken note of the reports of both Tribunals, which very precisely and clearly define the tasks that have been entrusted to them, the efforts they have made to fulfil those tasks, the difficulties that they have faced and continue to face, and above all the challenges concerning the deadlines they have been given by which to conclude their work.

With regard to the work that has been accomplished, we would like to congratulate the staff of the Tribunals on the results that they have achieved. They have made significant efforts in prosecuting numerous accused and in handing down indictments and judgements. We welcome and encourage those efforts because they have thereby contributed significantly to fighting impunity and ensuring the supremacy of justice.

With regard to the deadlines established under resolution 1534 (2004), in view of the fact that they were set by the Council, it would be desirable that all necessary measures be taken in order to respect those deadlines. We congratulate both Tribunals on the practical measures they have taken to accelerate investigations and judgements, as well as to limit delays in preparing the trials. We invite them to continue to develop similar initiatives. In particular, they should identify as soon as possible those trials that should be referred to the competent national jurisdictions. In that regard, my delegation invites the international community to support the efforts of the States concerned to strengthen their national judicial systems. In any event, the Council will always be able, when the time comes, to assess the situation and take the necessary measures.

With regard to the crucial issue of fugitives, my delegation believes that the work of the Tribunals, even after the end of their mandates, will be effective only if those fugitives are caught and brought to trial. People who are suspected of having played a prominent role in committing the most severe violations of human rights and international humanitarian law should be brought to justice. In that context, we are happy to see the inclination of many States to cooperate with the Tribunals. We would, however, state our concern at the failings of some States in their cooperation with the Tribunals. It is important for all States to cooperate fully with the Tribunals, which were established by the Council.

Finally, with regard to the legacy of the two Tribunals and their residual functions, Burkina Faso is following with interest the activities of the Council's informal working group, which is seeking an appropriate response. We congratulate the working

group, which has started a second reading of the residual issues identified in the joint document of the two Tribunals. Such important work that must continue, and we await with interest the proposals that will be made on such essential issues as the archives, witness protection enforcement, the imposition of sanctions, and the trial of fugitives who are yet to be captured.

Mr. Laher (South Africa): My delegation wishes to thank Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia (ICTY), and Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), for their statements introducing the respective reports of their Tribunals. We are also grateful to the respective Prosecutors of the ad hoc Tribunals for their informative statements on the steps they are taking to implement the completion strategies. This being the first report of Mr. Serge Brammertz as Prosecutor of the ICTY, we wish to convey our warm welcome to him and wish him well in his new capacity.

My delegation is pleased with the steps that the Tribunals are taking to ensure that they achieve the completion strategies.

We applaud the efforts of the ICTR Prosecutor to transfer files and refer cases to competent national jurisdictions. We are cognizant of the fact that, after an indictment has been confirmed, only the Chamber is authorized to make a decision to refer the indictment to a national jurisdiction. We welcome the request of the ICTR Prosecutor to the Chamber to transfer five cases, including the case of one fugitive, to Rwanda. In that regard, we have noted the decision of the Chamber not to allow referral of the cases to Rwanda, and we respect that decision.

We wish to highlight that it is important that there should be capacity-building in national justice systems in order to ensure that they are able to absorb the cases to be referred to them and for the Courts to have the confidence that judicial systems, such as that of Rwanda, will be able adequately to dispense justice. We welcome the recent steps that have been taken by the Government of Rwanda to improve its criminal justice system and encourage it to continue upon that path. We note that the matter of referrals is an important factor in the ability of the Tribunals to meet their completion strategies.

With regard to the ICTY, we remain concerned that, since the Prosecutor's last report, none of the fugitives has been arrested. Some of those fugitives are high-level accused who deserve to be prosecuted. We call upon all States to fulfil their responsibilities under the Charter of the United Nations and effect the arrest warrants of the Tribunals.

We are particularly concerned that the ICTY Prosecutor indicates that cooperation is unsatisfactory in respect of the willingness to arrest Ratko Mladic, Radovan Karadzic, Stojan Zupljanin and Goran Hadzic. The States of the former Yugoslavia where the individuals accused by the ICTY are suspected to be hiding have a particular responsibility to cooperate fully with the ICTY.

It is gratifying that the decisions we have taken in the past to alleviate the pressure of the workload of the Tribunals by extending the service of ad litem judges, in the case of the ICTR, and by increasing their number, in the case of the ICTY, have had the desired effect. My delegation wishes to assure the senior officials of the Tribunals of our continued support towards achieving their mandate.

Mr. Spatafora (Italy): As this is the first time that I am taking the floor in this Chamber under your presidency, Sir, I want to express my most sincere and warm congratulations to you on your assumption of the presidency for this month. I am sure it will be very successful, and you can count on our full support.

At the same time, I offer my very warmest congratulations to Ambassador Sawers, now co-leading the mission in Africa, and the United Kingdom delegation on having so effectively and fruitfully conducted their presidency.

Let me also join other speakers in thanking President Pocar and President Byron, as well as Prosecutor Brammertz and Prosecutor Jallow, for their presentations to the Council.

Italy commends the tangible progress made in pursuing the completion strategies through the strong commitment of the Tribunals, their judges, their prosecutors and their staffs. I should like in particular to congratulate Prosecutor Brammertz, who took office on 1 January and is appearing before the Council in that capacity for the first time today.

We endorse and fully support the statement that will be delivered later by the Permanent Representative of Slovenia on behalf of the European Union. I will

therefore limit myself to making some additional remarks.

With increasing concern, we note that cooperation with the Tribunals in securing the arrest and surrender of the remaining fugitives has not improved. Cooperation is now more crucial than ever. It is imperative that pending arrest warrants be executed promptly to avoid further delays in the completion strategies. The mission of the Tribunals to help bring lasting peace to communities ravaged by heinous atrocities necessarily means bringing perpetrators to justice. The message must not be sent that time plays in favour of the culprits.

On the future of the completion strategies, Italy believes that the Council must be vigilant in avoiding undue delays in the administration of justice. The ability of the International Criminal Tribunal for Rwanda (ICTR) to respect the schedule presented in December has run into some impediments. I am pleased to note that a new schedule has been prepared and, although the task is daunting, I hope that the ICTR manages to meet the Council's expectations that the schedule will be respected.

Of course, in pursuing the completion strategies, the Council should avoid giving the impression that it intends to promote expeditiousness at the price of fairness. Fairness must be the overriding concern of any judicial institution, the ad hoc Tribunals being no exception. I am confident that the Tribunals will make every effort to finalize the numerous pending cases as efficiently as possible, continue the referral of intermediate and lower-ranking cases to competent national jurisdictions, and facilitate the judicial activities on appeal.

On the other hand, it is also essential to increase capacity-building activities in the countries most directly impacted, in terms of both the judiciary's proceedings and of outreach, which could have an enormous impact on the civilian population and on the future of those States. Any support from the international community for that process, including by strengthening the judicial capacity of the relevant States to conduct criminal trials for international crimes, is thus more than welcome.

In that regard, Italy commends the assistance extended to the International Tribunal for the Former Yugoslavia (ICTY) by the United Nations Interregional Crime and Justice Research Institute and the Organization for Security and Cooperation in Europe, as recalled in the report of the President of the ICTY. Concerned mainly with the dissemination of best practices in judicial and prosecutorial activities within national courts, such assistance will contribute substantially to consolidating at the local and international levels the achievements of international judicial institutions in the field of international criminal law.

Finally, Italy would like to recall that the Tribunals' legacy is under serious consideration by this Council. There have been numerous meetings of the informal working group on international tribunals, chaired by Belgium, and many delicate issues have been or are being discussed. I am confident that, with the active contribution of the entire Council, important decisions will soon be made to reaffirm the purpose for which the Tribunals were established — to punish those responsible for the most heinous international crimes in the former Yugoslavia and in Rwanda.

Mr. Hoang Chi Trung (Viet Nam): My delegation would like to express its most profound appreciation to the Presidents and Prosecutors of the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) for their presentations today before the Council. We wish to take this opportunity to reaffirm our country's strong support for the work of the Tribunals to bring to justice the perpetrators of the most serious international crimes committed in Rwanda and the former Yugoslavia. Over the past 15 years, the two Tribunals have achieved a lot, and both are drawing towards a successful completion of their mandates.

Bearing in mind the time frame for the completion strategies of the two Tribunals, as set out by the Council in resolutions 1503 (2003) and 1534 (2004), we are very encouraged by the conclusion of the ICTR that the Tribunal remains on track with the majority of the projections announced in December 2007 to the Council. We take note of the ICTY's report that all efforts are being made to complete all trials as quickly and efficiently as possible, and that all appeals are estimated to be concluded in 2011.

While we fully share the assessments of the Tribunals that those estimates are subject to unforeseen circumstances, we are also mindful of the fact that the Council, in the aforementioned resolutions, asked the two Tribunals to take every step in their power to stay

within their deadlines and urged all States, in particular those of the regions concerned, to cooperate fully with the Tribunals towards the timely completion of their work. In that connection, my delegation welcomes all cooperative efforts rendered by States to the Tribunals, as shown in the reports.

Viet Nam notes with concern the number of fugitives, including the most senior ones whose names have been mentioned in the Council's resolutions. We believe, however, that the international community will not stop short of bringing those persons to justice. We encourage the Tribunals to continue vigorously with their efforts to decide, within the time frame of the completion period, on any possible referral of cases of fugitives to national jurisdictions. That would also help the Council to decide on an appropriate residual mechanism to ensure international trials in non-referable cases.

In the next two and a half years, we, as members of the international community, need to step up our efforts to ensure that the two Tribunals receive all the support necessary to complete their work and their mandates, including through continued provision of sufficient resources for retaining qualified staff members and working out good solutions in relation to their legacy. Assistance should also be given in capacity-building, aimed at enhancing the capacity of national jurisdictions to handle referred cases and legacy issues. The Security Council, with the assistance of its informal working group on the International Criminal Tribunals and in close consultation with the Tribunals, should make timely decisions on the residual arrangements and mechanism.

Finally, let me reiterate our firm commitment to working constructively with other members of the Council to ensure a smooth and effective completion of the work of the Tribunals.

Mr. Roelants de Stappers (Belgium) (*spoke in French*): I would like to express my thanks for the reports before us and for the statements made today by Tribunal Presidents Dennis Byron and Fausto Pocar and by Prosecutors Hassan Bubacar Jallow and Serge Brammertz. It is my particular pleasure to congratulate Mr. Brammertz: today is his first appearance before the Security Council as Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

My delegation fully endorses the statement to be made by the Permanent Representative of Slovenia on behalf of the European Union. I wish to comment also on a number of other major points.

We have carefully studied the reports of the two Tribunals, and we continue to believe — as we said in the statements we made in June and December 2007 (see S/PV.5697 and S/PV.5796) — that the Tribunals have made considerable efforts to implement their completion strategies. To be sure, it is regrettable to have to note that, as indicated by the evaluations of the Tribunals, the appeals proceedings cannot be completed until 2011. My delegation appeals to the Tribunals to continue to do everything necessary to comply with the 2010 deadline, as far as possible. We cannot reproach the Tribunals for certain delays for which they are not responsible, in particular those caused by the late arrest and transfer by States of certain accused, as has recently been the case for the International Criminal Tribunal for Rwanda (ICTR).

In that regard, I would recall that, in our view, the completion dates set in resolution 1503 (2003) and reaffirmed in resolution 1534 (2004), are indicative and should be adapted in the light of developments. Those resolutions, which were adopted more than four years ago, called on the Tribunals to "take all possible measures to complete ... all trial activities at first instance by the end of 2008, and to complete all work in 2010" (*resolution 1503 (2003), para. 7, and resolution 1534 (2004), para. 3*). In the view of my delegation, this means that the dates should be considered in the light of circumstances and in the light of what the Tribunals are actually able to do.

The referral of indictments to certain national jurisdictions, in accordance with the provisions of rule 11 bis of the Rules of Procedure and Evidence of the two Tribunals, is an essential element of the completion strategies. But it is important to emphasize that the decision whether or not to refer a particular case is strictly judicial in nature.

The legacy of the Tribunals — and thus that of the Security Council, which established them — will be tarnished if fugitive accused are not brought to trial. That is especially true of fugitives accused of the most serious crimes. We appeal to all the States concerned to cooperate fully with the Tribunals in arresting those individuals and transferring them to The Hague or to Arusha. Belgium notes with regret Prosecutor Brammertz's mixed assessment of Serbia's cooperation with the International Criminal Tribunal for the Former

Yugoslavia, and we encourage the Serbian Government to do its utmost to cooperate fully with the ICTY. Similarly, in the light of the information provided by Prosecutor Jallow, we urge the authorities in Kenya and other countries of the region to cooperate fully with the ICTR.

Let me conclude with a few words about the residual functions that will need to be carried out after the closure of the Tribunals. Since the beginning of this year, the Belgian delegation has been chairing the informal working group on this matter, and I can bear witness to the substantial progress that has been achieved. As other delegations have noted, Ambassador Verbeke briefed the Council on this progress during its consultations in mid-May. Over the past months, the working group has methodically studied the list of residual functions identified by the Tribunals and has engaged in a dynamic dialogue with both Tribunals, in the form of written questions and answers. Indeed, this afternoon the working group will be meeting with the Tribunal Presidents, Prosecutors and Registrars to continue that dialogue.

Over the past months, the initial elements of agreement have emerged in a way that should enable us to move forward on residual matters. My delegation is now preparing a document setting out the options, on the basis of which discussions in the working group could continue during the second half of 2008.

Still on the subject of residual functions — and beyond the issue of trying fugitives not yet captured at the time of the closure of the Tribunals — I would like, in my national capacity, to emphasize the importance of issues related to the protection of victims and witnesses and to the enforcement of sentences. Those questions go to the very heart of the basic rights of the individual. As concerns the enforcement of sentences, I would add that the number of agreements concluded with the Tribunals remains insufficient, and we appeal to States to consider concluding further such agreements.

Ms. Pierce (United Kingdom): Let me add our voice to those of others who have welcomed the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) back to the Security Council. I thank them for their latest reports on the implementation of their completion strategies. I want to extend a particular welcome to Serge Brammertz, who is no stranger to the Security Council but who is here for the first time in his capacity as Prosecutor of the ICTY.

My Government recognizes the progress which has been made over the past six months in completing the caseload of the two Tribunals, and we greatly value the commitment and hard work of all staff, led by the Presidents and Prosecutors, who have joined us today, in taking steps to expedite trials and appeals. I would be grateful if they would pass on our thanks to the teams who work with them.

Let me also urge both Tribunals to continue their efforts to avoid further slippage in the completion timetables. In that regard, we welcome the commitment to identifying further reforms in working practices. It is important that both Tribunals operate as efficiently as possible.

In the case of the ICTR, the recent decision of Trial Chamber III to reject the Prosecutor's request to refer the *Munyakazi* case for trial in Rwanda may have a significant impact on that Tribunal's ability to meet its completion deadlines. We look forward to hearing, over the coming months, how these issues are to be addressed.

The United Kingdom has repeatedly made clear through previous statements in the Security Council — and I do so again today — that the capture and transfer of the remaining ICTY and ICTR fugitive indictees remains an urgent priority of the highest order. It is unacceptable that so many fugitives — 17 individuals accused of the most serious crimes — remain at large.

The work of the Tribunals will not be complete until they are brought to justice in The Hague or in Arusha. In the case of the ICTY, all four fugitive indictees, including Karadzic and Mladic, must face international justice. In the case of the ICTR, we note that several of the fugitives' cases have been identified by the Prosecutor as suitable for referral for trial at the national level. In all cases, it is vital to secure full international cooperation to secure the arrest of those individuals so that justice can take its course.

We would recall that all States are under a continuing obligation, as underlined in resolutions 1503 (2003) and 1534 (2004), to cooperate with the ICTY and ICTR, including in locating and transferring indictees. The United Kingdom itself stands ready to provide the Tribunals with any necessary assistance,

but inevitably and naturally, a particular and primary responsibility in that regard lies with the States of the region.

We note Mr. Brammertz's assessment that a constructive relationship between the ICTY and regional authorities has resulted in satisfactory levels of cooperation from Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro, in particular in such areas as access to archives and documents. We also note, however, that Mr. Brammertz has assessed cooperation with Croatia and Serbia as only partially satisfactory. We acknowledge the recent unsuccessful attempt by the Serb authorities to capture fugitive indictee Stojan Zupljanin, but that is not enough. We strongly urge all countries in the region, especially Serbia and Bosnia and Herzegovina, to maximize and sustain efforts to capture all fugitive indictees and to transfer them to The Hague.

I associate myself with the statement that will later be made in the Chamber on behalf of the presidency of the European Union (EU). The United Kingdom welcomes the signature of Serbia's Stabilisation and Association Agreement with the EU, but full cooperation with the ICTY remains firmly embedded in the EU accession process. The conclusions of EU foreign ministers make it clear that the implementation of the interim agreement and the ratification of the Stabilization and Association Agreement will only take place once the Council has decided that Serbia is fully cooperating with the ICTY.

On ICTR cooperation, we are concerned by the recent letter to the Secretary-General from the Prosecutor addressing cooperation by Kenya and the Democratic Republic of the Congo in relation to the arrest of certain fugitives, notably Mr. Kabuga, who are believed to the hiding out in those countries. We urge both the Democratic Republic of the Congo and Kenya in particular to provide full and prompt cooperation with regard to the ICTR Prosecutor's efforts to locate and arrest ICTR fugitives.

We welcome the steady progress made by the Council's working group in examining the residual functions of the Tribunals that will remain after completion. We are grateful for the continued assistance and cooperation provided to the two Tribunals in that work, and pay tribute to the Belgian mission for its work in the working group. It is clear that decisions are now required on key issues so that the Security Council can decide in a timely manner on a coherent plan for the residual arrangements. We look forward to continued cooperation with both Presidents and Prosecutors on those issues over the coming weeks.

I would like, if I may, to respond to some of the things we have heard in the Chamber this morning. I have listened carefully to what other representatives have said, and I would like to say that we in the United Kingdom do not share the Russian Ambassador's assessment of the ICTY's activities or role. The ICTY is an independent judicial body and its judgements are based on the evidence presented to it. The United Kingdom has full confidence in the Tribunal's impartiality and its decision-making processes. I would like to stress that the ICTY and the ICTR are the sole authorities established by the international community, and in particular by the Council, to assess cooperation on war crimes and crimes against humanity in all the territory of the former Yugoslavia and in Rwanda. It is their assessment that counts and it is their assessment that the Council should support. States should not seek to compete with the Tribunals' assessments, but should instead give them all possible access to information and cooperation.

The issue of protection for witnesses has also been raised today. Securing adequate protection for witnesses is a critical issue in ensuring that all evidence is made available to the Tribunal. Previous reports from the ICTY Prosecutor have illustrated that witness protection has been a challenge across the region in a number of cases in Kosovo, but there have also been difficulties in protecting witnesses in Serbia. Full cooperation from all Governments on those issues is vital. We welcome the commitments of the Kosovo Government to do all it can to meet its obligations. We expect those commitments to be fulfilled.

On the Haradinaj case itself, we note that the Prosecutor has filed a notice of appeal. We look to due process to take its course.

Could I end by just reiterating the need for the most senior fugitives to face international justice. Some 13 years after the massacre at Srebrenica, I think it is important that we recall exactly what that massacre was about and the people who have been indicted as being responsible for it, namely, Karadzic and Mladic. Srebrenica was the worst massacre in

Europe since the end of the Second World War. It saw the slaughter of 7,000 Muslim men and boys. The victims of that awful crime deserve to have the people who were responsible for perpetrating it face justice in an international court.

Mr. Jurica (Croatia): I would like to welcome Judge Pocar and Judge Byron, the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as Prosecutors Brammertz and Jallow. I thank them for their respective reports.

The establishment of those two Tribunals by the Security Council 15 years ago was one of the defining moments in the development of international criminal justice. My country, Croatia, was one of the early proponents of their establishment, having been directly affected by the most painful experience of war crimes committed by the aggressors against its citizens in the early 1990s. Today, as the Tribunals' mandates are drawing nearer to the completion date, we can say that many of the goals for which they were established have been largely accomplished. However, before we can confidently state that their mandates have been completed, the international community has to make sure that every effort has been made to bring those most responsible to justice, however long it takes.

We have listened attentively to the reports presented to the Council by the representatives of the two Tribunals. We welcome their commitment to ensure that every measure is taken to expedite the work of the Tribunals and to implement their respective completion strategies at an early date. As part of that exit strategy, the Council will have to take decisions on certain mechanisms, the existence of which will be necessary even as the current trials area concluded, in order to ensure the continuation of a certain number of essential residual functions. Croatia will continue to engage in those discussions with a view to a timely articulation of such mechanisms. In that respect, I would like to point out two things related to the legacy of the ICTY in particular.

First, when addressing the issue of residual mechanisms, it is crucial that the Council make it clear that the core mandate of the Tribunals should not be compromised. It is therefore essential that fugitives face trial. In the case of the ICTY, that means that all four remaining fugitives — Radovan Karadzic, Ratko Mladic, Goran Hadzic and Stojan Zupljanin — must face international justice. Without it, the Tribunal's mandate will remain unfulfilled and its legacy incomplete. Any decision on the possible transfer of such trials to national jurisdiction may only be taken by a judicial instance.

Secondly, the interests of the long-term legacy of the Tribunals make it imperative that optimal solutions be found for balancing the interests of the most affected countries with the interests that the international community as a whole has in preserving that legacy. The issue of archives is an important element of future residual structures. Bearing in mind that their significance extends beyond judicial processes, we look forward to finding a solution that reconciles the interests of all stakeholders in the region and beyond, most notably those of victims and survivors, as well as those pertinent to ongoing or future trials.

As it has stated on many occasions, Croatia firmly believes that one of the most important determinants of the long-term legacy of the Tribunals is to ensure that it has been embraced by the countries under their jurisdiction. That is why the active involvement of national jurisdictions in the prosecution of war crimes is important. Not only does it add to an effective completion strategy, but it also demonstrates national ownership. The Croatian judiciary has clearly demonstrated its ability to conduct trials of even the most sensitive cases, including the one case that was transferred to it by the ICTY. Within the framework of the Tribunal's completion strategy, Croatia stands ready to take over any other remaining cases involving Croatian citizens or crimes committed in Croatia.

Furthermore, my country is ready to assume responsibility for the residual functions relating to the serving of sentences and is interested in concluding an agreement to that end with the ICTY so that the sentenced persons who so wish may serve their sentences in Croatia.

As stated before, we think that the directions guiding current practice are obsolete, as the circumstances have changed substantially since the inception of the Tribunal, thereby justifying the serving of sentences in the country where the crimes were committed, as is already the case with the sentences delivered by the Rwanda Tribunal. We see no reason to

continue the discrepancy in the practices between the two Tribunals.

I would now like to say a few words and provide some precise information on recent developments in Croatian cooperation with the Tribunal. Croatia is and will remain actively engaged in supporting the work of the Tribunal, including by providing the documents and information necessary for the preparation and conduct of trials. Over the past year, the Croatian authorities have developed an excellent working relationship with the ICTY prosecution. Croatia also has a permanent role in advancing regional cooperation in the war crimes trials. We have taken note of today's remarks by the Prosecutor. We see no grounds for questioning what has previously been described as a generally satisfactory level of cooperation as the willingness of the Croatian authorities to engage in regional and international cooperation on war crimes trials remains exemplary.

The extensive working relationship developed between the relevant Croatian authorities and the representatives of the Tribunal has in no way subsided over the past reporting period. The Prosecution has been given full access to the State archives, including those of the Ministry of Defence. So far, more than 9,000 documents have been handed over to the Prosecution, including those emanating from the highest ranking military officials. Nearly 800 requests for assistance have been received so far, of which only one remains partially unfulfilled. The outstanding request No. 739 has been given full attention by our authorities, and the ICTY has already received extensive documentation — 1,833 documents — pertinent to the request. We are conducting several internal investigations in the country with a view to discovering the possible existence of other documentation sought by the Prosecution. The Prosecution has been regularly updated on those activities. An early effort has been made to bring them to a prompt conclusion.

Croatia continues to believe that justice is an essential prerequisite for lasting peace. It attaches great importance to the fair and expeditious trial of all perpetrators of war crimes. However, the failure to establish individual criminal accountability undermines that goal and threatens to undermine the long-term legacy of the Tribunals.

Last fall, the judgement delivered by the Tribunal in the case of the so-called Vukovar Three provoked strong reactions in Croatia, particularly among the victims, their families and their associations. We took note of the appeals by the Prosecution in the Mrkšić and Šljivančanin cases, who were part of the Vukovar Three. However, it is difficult to comprehend why no appeal has been filed in the case of the acquitted Miroslav Radić, the remaining third participant in the massive crime, in which, among other things, more than 260 persons were summarily executed. We continue to hope that the appellate judgement in the Vukovar case will render justice that can stand the test of time.

Let me conclude by quoting the Prime Minister of Croatia, Mr. Ivo Sanader, who addressed the General Assembly on this issue last fall.

> "The issue of punishment for war crimes relates to responsibility in a broader sense. It relates to the responsibility of the international community to ensure effectiveness in preventing conflict and protecting and promoting human rights, humanitarian law and the rule of law in general." (*A/62/PV.25, p. 10*).

It is precisely for that reason that the Tribunal was established in 1993. Prime Minister Sanader also stated that ensuring

> "a just outcome of prosecution is the only way to discourage those who might consider repeating such crimes, today or in the future. Just punishment offers a measure of respect for the victims. Just punishment is the best deterrent. Just punishment also serves truth and opens the way for lasting peace, security and reconciliation". (*ibid., p. 8*).

Mr. Kleib (Indonesia): My delegation joins previous speakers in welcoming the Presidents and Prosecutors of both Tribunals to the Council and in thanking them for their comprehensive briefings on the progress of the implementation of the completion strategies of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

Like others, we underscore the importance of the completion strategies, which are instrumental in the performance of the ICTY and ICTR in their final phases. In that regard, Indonesia notes with

appreciation that various concrete measures have been taken to implement the strategies and that significant progress has been achieved towards the completion of the work of the two Tribunals. We fully appreciate the significance of the continuous efforts of the Tribunals to achieve greater efficiency by exploring further ways to expedite proceedings while respecting the rights of the accused.

In connection with some functions of the Tribunals that will remain in place following the completion of their work, we wish to underline the need for the Security Council to establish a particular mechanism to deal with residual functions. Such a mechanism should be able to address residual functions, particularly those related to fugitives at large, transfers of cases to national jurisdiction, witness protection, sentence supervision and archives. The mechanism, we believe, should hold only the particular residual functions that are necessary to retain. Functions other than those should be transferred to national jurisdiction or other relevant bodies.

It is also the view of my delegation that the most essential residual function that the Council should consider is the trial of fugitives. In that regard, it is pertinent for all States concerned to fully cooperate in order to bring all perpetrators of crimes against humanity in the former Yugoslavia and Rwanda to justice. Impunity is unacceptable.

Another significant feature of the two Tribunals' completion strategies as they relate to residual functions is the referral of cases to national courts. My delegation recognizes the merits of challenges posed by such referrals. It is therefore vital for the international community to continue to support the capacity-building performance and programmes of the relevant national courts. Much work remains to be done if the national courts are to take over the judicial function of the Tribunals in the future. In that regard, we commend the efforts of the Tribunals to strengthen their cooperation with the respective national authorities.

In the light of that, my delegation would like to specifically mention that the informal working group on the Tribunals chaired by Belgium has successfully arrived at some areas of agreement in identifying residual functions and possible solutions to the issues they raise. We share the view that the agreement could serve as good common ground for the working group to move forward to a new phase of work by focusing on the possible elements of a Security Council resolution. We encourage the continued close cooperation between the two Tribunals and the working group on the Tribunals' legacy, most crucially with respect to mechanisms required to disposing of the Tribunals' residual functions.

Before concluding my remarks, I would like once again to reiterate my delegation's support to both Tribunals in discharging their mandates, including the implementation of their respective completion strategies. We also wish to express our appreciation for their contribution to bringing to justice those responsible for crimes against humanity in the former Yugoslavia and Rwanda.

Mr. Lacroix (France) (*spoke in French*): My delegation would like to join previous speakers in thanking Tribunal Presidents Pocar and Byron and Prosecutors Brammertz and Jallow for their very precise and detailed briefings. We also, of course, associate ourselves with the statement to be delivered by Slovenia on behalf of the European Union. I would like to make some comments in my national capacity.

First of all, I would like to assure our guests of France's full support to the important efforts to be carried out by the Tribunals in this difficult phase of the completion of their work. The Security Council set up the Tribunals so that the serious crimes against humanity committed in Rwanda and in the former Yugoslavia would not go unpunished. In seeing to it that those responsible get a fair trail, the international community wanted not only to see justice done, but also to reduce tensions and restore peace and security in those areas afflicted by terrible conflict.

That objective has largely been achieved, thanks to the work of the Tribunals. Their term is now coming to an end, and we believe that we should give them all the support they need to be in a position to fully carry out their mission. That is the point of the completion strategies defined in 2003 and 2004 by the Council. A timetable was laid out: 2008 was to be the end of the trials at first instance, and 2010 the end of the appeals process and all of the work. We commend the Tribunals for their efforts to comply with that timetable. The steps taken to streamline the trials should be highlighted, as should the intensification of the pace of work. The Security Council's decision to authorize the International Criminal Tribunal for the Former

Yugoslavia (ICTY) to recruit additional ad litem judges has been particularly useful in that regard.

Complying with the timetable means that we must give the Tribunals the resources necessary to conduct their activities in a sustained manner without compromising the quality of justice dispensed. We note the delays encountered with regard to the completion strategy, which can be largely explained by the judicial complications mentioned in the reports. Furthermore, the referral of cases to national jurisdictions is an important aspect of the completion strategy, but we understand that its implementation by the judges is not always easy.

The international community too bears its share of responsibility for the delays, since progress in the proceedings also depends on cooperation by States. We acknowledge the indicative nature of the deadlines set by the Council, but we request the Tribunals to do all that they can to comply with them. We note with satisfaction the commitments undertaken in that regard. We must ensure that the spillover not exceed a reasonable time frame.

The major uncertainty with regard to completion is the question of the accused still at large. We agree that the mission of the Tribunals will not be accomplished with those accused have been arrested and tried. France is firmly committed, in particular, to bringing to justice Messrs. Mladic, Karadzic, Zupljanin and Hadzic, for the ICTY, and Mr. Kabuga, for the ICTR. We regret, in that regard, the inadequate cooperation shown by Serbia and Kenya, and we call upon those States to fully cooperate with the Tribunals.

France earnestly hopes that the problem of fugitives will be solved before the end of the Tribunals' work. If that is not the case, it should be done within the framework of managing their legacy, because it would be unacceptable for the end of the Tribunals to mean impunity for those criminals still at large.

That of course leads me to deal with the question of the residual functions of the Tribunals, on which an informal working group of the Council, very effectively chaired by Belgium, has been working for several months. Our objective is to ensure that the Council is in a position by the end of the year to adopt a resolution that would establish a framework for managing the residual functions of the Tribunals after they are gone. We welcome the points of agreement that have already been achieved within the group, first and foremost the rejection of impunity and bringing the fugitives who bear the greatest responsibility before international justice. We believe that we should provide for a mechanism that would restore the capacity to try those individuals once they are arrested. Furthermore, we strongly consider that such a mechanism, which must be compact, effective and economical, should provide for the functions necessary to administer justice in full equity and security. We are, finally, committed to ensuring that the United Nations retain ownership and control of the Tribunals' archives.

In general, France believes that the United Nations and the Security Council are duty-bound to take the necessary steps to ensure the integrity and lasting nature of the legacy of the Tribunals. The mission for international justice entrusted to them should be completed and the conclusion of their work in terms of the strategy defined by resolutions 1503 (2003) and 1534 (2004) must not mean renunciation of the primary impetus behind their creation, that is, the rejection of impunity and the determination to see justice done.

Mr. Soler Torrijos (Panama) (*spoke in Spanish*): First of all, allow me to join others in congratulating the Presidents and Prosecutors of both Tribunals on their briefings this morning. Our delegation acknowledges the significant work carried out by both Tribunals in providing peace, justice and reconciliation to Rwanda and to the republics of the former Yugoslavia. In that context, we hail and thank all of the staff of the Tribunals for their work, in particular their efforts to ensure compliance with the goals of the completion strategies as laid out in resolutions 1503 (2003) and 1534 (2004).

With regard to the International Criminal Tribunal for the Former Yugoslavia (ICTY), we are pleased to note the satisfactory cooperation received from the Governments of Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Montenegro. It is important that that cooperation and dialogue continue, in particular with regard to witness protection and enforcing sentences. However, we are concerned by the report's observation that cooperation by the Government of Serbia is not satisfactory with regard to access to archives and key documents and to the capture of those who are still fugitives, including Radovan Karadzic and Ratko Mladic.

With regard to the work of the International Criminal Tribunal for Rwanda (ICTR), our delegation has taken note of the recent arrests, the workload that those new cases mean for the Tribunal and the effects that that will have on the expectations contained in the completion strategy. We therefore await with interest the result of the deliberations that the Tribunal will have to carry out as soon as possible to deal with this new workload. We are committed to working constructively on the basis of that analysis.

With regard to the situation of ICTR fugitives, my delegation is concerned at the recent report by the Office of the Prosecutor that indicates insufficient cooperation by the Governments of Kenya and the Democratic Republic of the Congo. We urge the parties to comply with their legal obligations in order to meet the objectives of the Tribunal as established in resolution 1503 (2003).

The ICTY and ICTR were not established as permanent institutions, and therefore their task should be completed in full, as established in the completion strategies adopted by the Security Council. Therefore, the Tribunals need the infrastructure and the administrative and judicial staff necessary to ensure that both of them can meet their objectives with the same diligence as we have seen thus far in their work.

We also believe that it is of the greatest importance to listen to the concerns and considerations put forward by both Tribunals with regard to the retention of experienced staff. That issue could indubitably have negative repercussions for the work of the Tribunals. We acknowledge and thank the United Nations Secretariat for the measures taken last year in that context, and we urge it to take additional measures to ensure that the Tribunals have the personnel they need to finish their tasks on time and in an efficient manner.

Finally, we note the studies and proposals made by the Tribunals on their legacies and residual issues, and we thank them in particular for the effective communication and interaction with the Council's informal working group on the Tribunals. We agree with them that the Council should ensure the creation of an effective jurisdictional mechanism to resolve those residual issues and to consider options for trials of individuals captured after 2010.

The President: I should like to make a statement in my capacity as the representative of the United States of America.

I would like to thank the two Presidents and the two Prosecutors for their briefings today. The United States welcomes the assessment of the Prosecutors and the Presidents on the implementation of the Tribunals' completion strategies. We commend the Tribunals, judges and staff for their diligence and dedication. We note in particular our appreciation for the tireless efforts of Prosecutor Hassan Jallow, and we welcome the new Prosecutor, Mr. Brammertz, back to the Council.

The United States urges the Tribunals to continue to implement their completion strategies with maximum efficiency. We are encouraged by the relatively small number of cases that remain in the pre-trial stages, and we expect that the Chambers will work to bring those cases and trials currently in progress to resolution as soon as possible. With that in mind, I would like to make three points.

First, we commend the Tribunals for their efforts to transfer to national jurisdictions, as appropriate, the cases of indictees who are not accused of bearing the highest levels of criminal responsibility. Those efforts must be accompanied by the ongoing support of the international community for the domestic judicial capacity of Rwanda and the countries of the former Yugoslavia.

Secondly, the 17 individuals who have been indicted by the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and remain at large must be brought to justice. The United States urges the international community to work towards securing the arrest of those indictees as soon as possible.

Thirdly, the United States calls on all States to fulfil their obligations to cooperate with the Tribunals. We are troubled by reports that suggest that the ICTR fugitive and alleged genocide financier Kabuga is now in Kenya. We note with particular concern Prosecutor Jallow's assessment that the Government of Kenya has not fully cooperated with the Tribunal's effort in seeking Kabuga's apprehension. The United States urges Kenya to act immediately on the Tribunal's recommendations and to take additional steps to deny Kabuga access to his network of support.

The apprehension of ICTY indictees, particularly Mladic and Karadzic, remains essential to ensuring lasting reconciliation in the Balkans. We call on all countries in the Western Balkans, and Serbia in particular, to fulfil their obligations by arresting and transferring all fugitives to the ICTY. We applaud the efforts of the Prosecutors in Bosnia and Herzegovina and Croatia and the Office of the War Crimes Prosecutor in Serbia to work closely with ICTY authorities and to share information. We urge those countries to continue to increase information-sharing and to allow the transfer of war crimes proceedings between the States as appropriate.

As the Tribunals implement their completion strategies, the United States will continue to support efforts to ensure that the residual issues can be successfully addressed following the Tribunals' eventual closure. Again, we thank the Presidents, Prosecutors, Registrars and their staff for their pursuit of accountability and their service to the memory of the victims.

I now resume my functions as President of the Council.

I give the floor to the representative of Slovenia.

Ms. Štiglic (Slovenia): I have the honour to speak on behalf of the European Union (EU). The candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia; the countries of the Stabilisation and Association Process and potential candidates Albania and Montenegro; the European Free Trade Association countries Liechtenstein and Norway, members of the European Economic Area; as well as Ukraine, the Republic of Moldova, Armenia and Georgia align themselves with this declaration. In the interests of time, I will deliver an abbreviated version of the EU statement. A complete and official version is being distributed in the Chamber.

At the outset, we would like to express our appreciation to you, Sir; the Presidents of both Tribunals Judge Pocar and Judge Byron; and the Prosecutors; Mr. Brammertz and Mr. Jallow, for providing today's briefings on the implementation of the respective Tribunals' completion strategies.

The European Union wishes to reiterate its strong support for the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). During the years of their existence, the Tribunals have made an important contribution to international law. They have sent a clear signal that transparent and effective international criminal justice is viable. By bringing to justice persons responsible for serious violations of international humanitarian law and by rendering justice to the victims, the Tribunals have invaluably contributed to the restoration of peace and stability and to the promotion of the rule of law in the affected areas. The Tribunals' achievements have clearly proven that peace and justice can go hand in hand, and it remains our firm conviction that they should go hand in hand. In our view, the Tribunals have invaluably contributed to the restoration of peace and stability. Shocking crimes, as we have seen in those conflicts, should not go unpunished and the perpetrators of those crimes must be held accountable for their acts.

The EU deeply regrets that, despite the continuing appeals from the international community, 17 indictees are still at large — four indicted by the ICTY and 13 by the ICTR — and that among those are some of the key persons allegedly responsible, such as Ratko Mladic, Radovan Karadzic and Félicien Kabuga. Since the most recent completion strategy report was issued, only one fugitive has been arrested. While the EU commends the arrest of Mr. Nzabonimana, a top-level fugitive, by Tanzanian authorities, at the same time it urges all States immediately and unconditionally to cooperate with both Tribunals, in full adherence to their obligations under the relevant Council resolutions. The EU remains absolutely committed to ensuring that all remaining fugitive indictees face international justice.

Full cooperation with the Prosecutor's Offices of both Tribunals by providing access to archives and documents; access to and protection of witnesses; and, in particular, tracking, arresting and surrendering the remaining fugitives is paramount for the successful completion process. We call on all those involved to redouble their efforts to expedite the arrest and surrender of the remaining fugitive indictees.

In the context of the ICTY, the EU remains absolutely committed to seeing all four remaining indictees face international justice. The EU regrets that Serbia's cooperation during the last reporting period concerning the apprehension of fugitives remains unsatisfactory. Statements made by Serbian President Tadić following the recent elections on making cooperation with the ICTY one of the new

Government's priorities are encouraging. It must be emphasized that full cooperation with the ICTY is a State responsibility, regardless of which Government is in office.

The EU takes note that much work still remains to be done to facilitate cooperation between States of the region in the investigation and prosecution of alleged war criminals. The EU calls upon States in the region, in particular Kenya, to fully cooperate with the ICTR in accordance with their legal responsibilities. On this occasion, let me remind the Council that the EU has adopted three common positions and a Council regulation in order to support the effective implementation of the mandate of the ICTY.

The EU commends both Tribunals for their ongoing efforts to take all possible measures to complete all trial activities at first instance by the end of 2008 and to complete all work in 2010. However, the EU takes note of the estimated delay to the original completion strategy deadlines due a number of factors, including the late capture and transfer of fugitive indictees.

The EU further welcomes the work that both the ICTY and the ICTR have undertaken on residual issues, and the EU welcomes the discussion of those issues, under Belgian leadership, within the informal Security Council working group on international tribunals.

We acknowledge that the completion strategy has positive impacts on national judicial systems, and consequently on societies. The EU welcomes the creation of specialized institutions for the prosecution and trial of intermediate and lower-rank accused in Croatia, Bosnia and Herzegovina and Serbia. The EU also fully supports the strengthening of the Rwandan judicial system and the improvement of its capacity to start prosecuting cases awaiting referral from the ICTR.

We would like to underline that national judicial authorities need to carry out fair judicial proceedings and to provide that sentences are served in accordance with the appropriate security standards. The EU therefore attaches importance to the continued monitoring of referred trials to ensure that they are conducted in accordance with international standards. While the transfer of intermediate and lower-rank cases is a feasible solution in the light of an ongoing completion process, the EU remains convinced that, once apprehended, remaining high-level fugitives must be prosecuted and tried before an international tribunal.

The EU welcomes the recent signing of agreements on the enforcement of sentences by Estonia and Slovakia and calls on other Member States to follow that example.

Finally, the EU commends the outreach programmes of the Tribunals, which disseminate the work of the Tribunals to the wider population in order to assist in achieving our key objective, that is, truth-telling and reconciliation processes in the respective post-conflict regions, and consequently to guarantee peace and security in the international community as a whole. The EU stands ready to take its share of the responsibility to achieve those objectives.

The President: I now give the floor to the representative of Rwanda.

Mr. Ngoga (Rwanda): My delegation wishes to thank you, Mr. President, for this opportunity to address the Security Council on the important issue of the International Criminal Tribunal for Rwanda (ICTR). We would like to reiterate to the ICTR the full support and cooperation of the Government of Rwanda as the Tribunal endeavours to implement the completion strategy.

My delegation expresses its thanks to Judge Byron and Prosecutor Jallow for their respective presentations. We are also grateful for the valuable work that is being done by the entire staff of the ICTR. The people of Rwanda appreciate their contribution to our reconciliation process.

We note and commend the efforts being made by the ICTR to implement resolutions 1503 (2003) and 1534 (2004), which relate to the completion of the ICTR and ICTY mandates. We also highly commend the attention and due diligence that the Security Council continues to exercise in its bid to ensure the successful and smooth completion of the ICTR's mandate.

The crimes falling under the ICTR's mandate were committed in Rwanda, mostly by Rwandans and against fellow Rwandans. That makes Rwanda the most responsible and concerned State in the pursuit of justice for those crimes. It is in that regard that Rwanda considers it imperative that it participate fully in the determination of matters pertaining to the ICTR, in particular as regards the completion process. We have

continued to improve our institutional mechanisms for cooperation with the ICTR to keep pace with the completion process and the associated cooperation challenges. We are happy to inform the Council that, to date, we have been able to handle all the requests made by the various organs of the Tribunal. I note the acknowledgement in the President's briefing regarding the situation of cooperation.

In its resolutions 1503 (2003) and 1534 (2004), the Security Council directed the two Tribunals to wind up their activities within specified deadlines. The resolutions further directed that middle- and lower-ranking cases be transferred to national jurisdictions, including that of Rwanda. As a matter of State responsibility, Rwanda began close consultations with the Tribunal and began to prepare the ground to receive cases and conduct trials in some of the cases that may be transferred from the ICTR.

A comprehensive piece of legislation was passed in March 2006 to govern the transfer of cases to Rwanda from the ICTR and from any other State. The law provides sufficient guarantees for fair trials. It is specifically based on the ICTR's Rules of Procedure and Evidence, as well as other best practices recognized and applied by the ICTR. The law allows the ICTR to monitor trials and recognizes the ICTR's primacy and right to call back a transferred case.

Modern courtrooms have been prepared. For the past two years, a joint programme has been in place between the ICTR and Rwanda. Under the joint programme, we have conducted familiarization and interaction visits between the ICTR and Rwanda, coupled with workshops for judges, prosecutors, members of the bar association and other staff members. A modern holding cell has been constructed in Kigali to accommodate ICTR detainees who would be appearing in Court.

Similarly, an agreement for the transfer of ICTR convicts to Rwanda was signed on 4 March 2008. The agreement is founded on the requirement provided for under the ICTR Statute to have sentences served in Rwanda. We have a modern correctional facility that is intended to accommodate ICTR convicts sent from Arusha, as well as ICTR accused who may be convicted.

The Tribunal's Prosecutor and Registrar have both conducted a series of visits to Rwanda to verify Rwanda's readiness and willingness to receive the ICTR's outstanding workload. They have expressed their satisfaction with the level of compliance with internationally recognized standards and norms attained by Rwanda's judicial institutions. We were able to make all those preparations with the support of numerous members of the Security Council. That is due to the fact that Rwanda has a shared interest with the Council in ensuring a smooth winding-up process for the ICTR.

The fugitives still at large are not limited to the 13 appearing on the ICTR's list. We have repeatedly appealed to the Security Council to see to it that the conclusion of the ICTR's mandate does not become an amnesty for those not included on the list, which is very condensed. My Government appreciates the efforts of some Governments that have apprehended some of the fugitives. The proceedings for their extradition to Rwanda are under way, largely as a result of the judicial sector reforms and capacity development taking place in Rwanda and that I have previously described.

Rwanda's commitment to comply with international standards of fair trial and judicial independence is unquestionable, as it is central to my Government's policy founded on our continued fight against impunity. We have made significant progress in that important aspect. The progress made meets the requirements inherent in the ICTR's completion process.

Since May 2007, the ICTR Prosecutor has filed five requests for the transfer of cases to Rwanda for trial. The five referral applications are pending before different Chambers of the Tribunal. Rwanda has discharged its duty to file submissions before the respective referral Chambers, demonstrating the willingness and ability to handle those cases.

In spite of all those efforts, my country is seriously concerned about the direction that the issue of the referral of cases is taking. We are particularly concerned that that process has the potential to undermine the trust and reputation we have painstakingly built. It is that trust and confidence that has led certain Governments, including some members of the Security Council, to apprehend some of the fugitives found on their respective territories.

Our achievements in judicial reform are not intangible; they are very visible. Our participation in the completion process is a response to a call, not a

public relations exercise. We must be judged on the basis of our conduct and policies, not on the basis of presumed future misconduct. We expect and hope to inherit from the ICTR a legacy that complements our efforts. We expect a legacy that supports the growth of our institutions.

The ICTR's decisions, including those being made by judges, are supposed to be specific to the cases and suspects, and not to be used to undermine an entire national system. We note with dismay that the recent decision in the *Munyakazi* case is inconsistent with previous reports and the present report of the Tribunal as regards the level of cooperation between my Government and the Tribunal. Those reports unequivocally state that Rwanda cooperates fully with the ICTR. It is more disappointing to note that the ICTR judges rely solely on reports by non-governmental organizations to justify their decision, in total disregard of Rwanda's views on those reports. They have misinterpreted the Rwandan Government's rejection of pronouncements by foreign national jurisdictions, despite the fact that this is a sovereign right.

In 1999 Rwanda protested conduct of the court in the *Barayagwiza* case. Barayagwiza was eventually convicted by the ICTR through to the appellate level. The ICTR has since handed down five acquittals, and that has not raised any protest from Rwanda. The Tribunal chose to refer to the 1999 incident and kept silent on those subsequent acquittals in order to portray Rwanda as a country that is opposed to acquittals. We view this as a serious misinterpretation — and one that has serious consequences. We are dismayed by the ruling, which portrays our country as one that cannot be trusted. This is likely to create grounds for fugitives at large to roam around in different countries with impunity. We are informed, however, that the ICTR Prosecutor intends to appeal this decision, and we will continue to be interested in developments.

Regarding the Prosecutor's decision on the Kabgayi case, we reiterate our commitment and readiness to take it through the judicial process in strict observance of the norms and principles of a fair trial and in observance of the commitment we have made to the Prosecutor.

Rwanda is committed to upholding justice and ending impunity. It is therefore incumbent upon the Security Council to establish support mechanisms to help Rwanda in its efforts. Under such mechanisms, issues related to post-ICTR residual functions could be addressed as well.

At this crucial juncture, Rwanda still believes that the major interest, shared with the Security Council, is to find an amicable conclusion of the ad hoc mandate of the Tribunal. In this period we need a more sustainable and long-term mechanism between United Nations Member States and the Government of Rwanda, under which the key issues — particularly the transfer and trial of all remaining ICTR cases, the pursuit of fugitives at large, the monitoring of the serving of sentences and the management of archives — can be addressed. We need a mechanism to ensure that the set goals do not shift gradually. We need to guard against endless faits accomplis. It is through such a mechanism that we can have a smooth and effective completion process.

As I pointed out earlier, in March of this year Rwanda signed an agreement on service of sentence. We have completed all the arrangements for having all of the convicts sent to Rwanda to serve their sentence. We can only expect the ICTR to smoothly complete the remaining part of this agreement.

The issue of the transfer of archives to Rwanda remains pending; consultations have been going on with the team designated to study and make recommendations on the matter. We reiterate our desire and readiness to take full custody of the archives. Given that this is a crucial undertaking, the earlier formal discussions can begin the better.

The President: I now give the floor to the representative of Serbia.

Mr. Jevremović (Serbia): Before I proceed to make my statement, I would like to pay my respects to Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as to Mr. Serge Brammertz, the new Prosecutor of the ICTY, to whom I wish much success in that post of great complexity and responsibility.

In its session on 29 May, the Government of the Republic of Serbia adopted a report on Serbia's cooperation with the ICTY over the past six months and on the framework for future cooperation. The report has been circulated to all members of the Security Council. However, I shall give a brief account of the main points of the report.

Out of the 46 indictees requested by the Tribunal for transfer, Serbia has transferred 41. One indictee died before the transfer procedure could be completed, while the search for the remaining four continues. Substantial financial rewards have been offered for information leading to their arrest.

Out of 1,671 requests for assistance made by the Office of the Prosecutor related to the production of documents, 95 per cent have been complied with in full or in part, while the rest are still being processed.

Under the 2006 proposal on principles and modalities of access to the State archives, representatives of the Office of the Prosecutor made 20 visits to the State archives of the Republic of Serbia. All witnesses who have been asked by the Tribunal to testify have been given waivers. At least 123 individuals charged with committing criminal offences in violation of international humanitarian law by Serbian judicial authorities have been tried before the War Crimes Chamber of the District Court of Belgrade.

Serbia has set up a team to track down the ICTY fugitives. With additional assistance from representatives of the Office of the Prosecutor, the team reports regularly on its activities.

Those considerable achievements were made with a lot of hard work and dedication. Yet, the Special Prosecutor does not appear to appreciate these achievements, asserting in one report that there is a "lack of a clear concerted strategy and systematic investigative activities directed at locating and arresting fugitives". (*S/2008/326, annex II, para. 26*). Despite the 20 visits to the State archives of the Republic of Serbia referred to previously, the Office of the Prosecutor states that "no access to these archives has been granted" (*ibid., annex II, para. 22*) and that cooperation in terms of access to archives and the provision of documents is only "partially satisfactory" (*para. 20*).

Furthermore, Serbia has done its best to protect and ensure the appearance of witnesses. It has acted upon each request from the Office of the Prosecutor for witness protection. Let me point out, however, that, like any other country, Serbia cannot intervene and compel witnesses to testify voluntarily. The choice of witnesses is entirely in the hands of the Office of the Prosecutor, and the responsibility for their refusal to testify voluntarily cannot, therefore, be attributed to States.

Of much greater concern, however, is the inability — sometimes even the flat refusal — of some countries and organizations to provide witness protection and prevent the disappearance of potential witnesses. That problem is exemplified by the *Haradinaj et al.* case. One does not have to be a legal expert to realize that something is amiss in a trial if counsel for the defence of an individual accused of serious crimes can state that there was no case to answer. Accordingly, we welcome the Prosecutor's motion to appeal the decision in that case and the filing of a contempt of court procedure. It is my hope that, in the next round, the ICTY will receive appropriate assistance from the United Nations Interim Administration Mission in Kosovo (UNMIK) and other stakeholders.

We in Serbia have been appalled by the allegations in the book of the former Prosecutor, Mrs. Del Ponte, about trafficking in human organs. According to those allegations, Serbs and other non-Albanians of Kosovo and Metohija were abducted and transferred to the territory of the Republic of Albania, where they were tortured and had their vital organs removed. The Republic of Serbia has instituted legal proceedings to investigate and try the perpetrators of those heinous crimes and, to that end, has requested international assistance, including from the Secretary-General.

There is another problem highlighted by Mrs. Del Ponte's book: the disturbing and absolutely unacceptable practice of former high-ranking officials of the Office of the Prosecutor of disclosing classified information in their public statements, books or memoirs. Serbia is very concerned about that practice. It will take appropriate measures and will ask for international cooperation to redress the situation.

It is only through joint cooperation that we will be able to carry out the completion strategy by 2010. Serbia is grateful to other countries, international organizations and, most of all, the ICTY for their assistance in building its national legal capacity. That is all the more important in the light of the serious problems that the ICTY is facing with regard to staff retention. The building of national capacities, especially those of the countries in our region, may therefore be the proper way to proceed provide answers to questions related to the question of residual mechanisms.

The promotion of relations among the countries of the region, their cooperation within European processes and their integration will guarantee that they will be prepared and capable of assuming many of the ICTY functions beyond 2010.

The President: I now give the floor to Judge Pocar to respond to comments and questions raised.

Judge Pocar: I wish to thank all the members of the Security Council for the support shown for the activities of the International Criminal Tribunal for the Former Yugoslavia (ICTY). I have taken due note of all their comments and will take them into account in our deliberations in The Hague.

Let me reiterate our commitment to concluding the work of the ICTY as speedily as possible, respecting, of course, at the same time, the principle of fair trial and due process, without which international justice would be meaningless. Council members' concerns on the completion of the work have been taken into account and we will be guided by those concerns in our actions.

I would like, however, to clarify one issue that has been raised concerning the referral of cases. While we agree that referring cases is an important tool to conclude our work, I wish to stress that that is constantly the object of careful judicial decisions. We must take into account various factors, including respect for the principles of due process and fair trial when the cases are dealt with in the region, and also the decisions made by the Security Council when authorizing the referral of cases to the region. The Tribunal has been authorized to refer to the region only intermediate and low-rank accused, and we stick to that decision of our parent body. Now, we have very few cases that have not started yet, including those of the fugitives, and it is my understanding that it is the position of the Security Council that those fugitives should, when they come, be tried by our Tribunal and not be referred to domestic jurisdictions.

Referrals are also connected with capacity-building for national judiciaries, and I appreciate the positive comments that have been made on our efforts to establish a strong partnership with domestic judiciaries in order that the legacy of the Tribunal be preserved through continued domestic prosecution of the crimes. We are encouraged by those positive comments, and we will continue to work in that direction together with the relevant international organizations.

Allow me to conclude on a more personal note. Today may be, most likely, my last appearance before the Security Council in my capacity as President of the ICTY. I wish to express my deep gratitude to the Security Council and its member States for the support they have always provided to the Tribunal and to me personally during the term of my presidency, which will expire before the next meeting of the Council on this matter. It was indeed an honour and a fascinating experience for me to participate in the Council's meetings dealing with its endeavours to establish and foster international criminal justice. Be assured that I will keep in mind everything that I learned from my participation in the activities of this high-level body and will continue to be guided by its wise comments in my daily activities in the Tribunal and perhaps elsewhere.

The President: I thank Judge Pocar for his clarifications and comments, and I thank him on behalf of the Council for his service. I now give the floor to Judge Byron to respond to comments and questions raised.

Judge Byron: I would simply like to thank speakers for their thoughtful statements. I would like to assure them that I have taken full note of the comments and the advice that has been given and will ensure that that wise counsel is considered as we proceed. These statements have demonstrated the continuing commitment of the Security Council to the high ideals of international criminal justice and the eradication of impunity.

I would also like to say that I am extremely grateful for the indications of general appreciation for our work. I would like to assure the learned representative of the United Kingdom that, when I report back to the staff of the Tribunal, it is most likely that there will be a positive impact on staff morale. I can only reiterate that the judges and staff of the International Criminal Tribunal for Rwanda will remain fully committed to doing our best to complete our mandate within a reasonable time.

I have also noted the concerns and comments on the issue of referrals. What I would simply say in that regard is that the Tribunal will continue its work in capacity-building. In that regard, I would remind members of the Council that capacity-building activities do not form part of our assessed budget and

that any assistance that is given to strengthen the voluntary trust fund will be applied in that area.

The President: I thank Judge Byron for his responses and comments. I now give the floor to Prosecutor Brammertz to respond to the comments and questions raised.

Mr. Brammertz (*spoke in French*): I thank those present for their comments, most of which were encouraging, some of which were critical. I would like to thank them for emphasizing the need for cooperation by the countries of the region and by the international community.

I would state once again our determination to implement the Security Council resolutions on the completion strategy. The Tribunal President referred to that. The Tribunal has referred a number of cases, under rule 11 bis, to the region, and no other referrals are being planned. In fact, as recently as last week, decisions were handed down in these cases by jurisdictions in Bosnia and Herzegovina and in Croatia.

I would like to emphasize in this context that we are daily contact with prosecutors in the region to transfer to their files of investigative material. I should like, if I may, to encourage Council members and the entire international community to provide further support for the work of prosecutors in the region. They are doing outstanding work in political conditions that remain difficult and with resources that are often insufficient.

The President: I thank Mr. Brammertz for his clarifications and comments.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

May I take this opportunity, on behalf of the Security Council, to thank Judge Pocar, Judge Byron, Prosecutor Brammertz and Prosecutor Jallow for taking the time to brief the Council.

The meeting rose at 1.15 p.m.

United Nations S/PV.5905

Security Council

Sixty-third year

Provisional

5905th meeting

Thursday, 5 June 2008, 10 a.m.

New York

President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Grauls
	Burkina Faso	Mr. Koudougou
	China	Mr. La Yifan
	Costa Rica	Mr. Stagno Ugarte
	Croatia	Mr. Skračić
	France	Mr. Lacroix
	Indonesia	Mr. Kleib
	Italy	Mr. Spatafora
	Libyan Arab Jamahiriya	Mr. Gouider
	Panama	Mr. Arias
	Russian Federation	Mr. Kuzmin
	South Africa	Mr. Sangqu
	United Kingdom of Great Britain and Northern Ireland	Mr. Quarrey
	Viet Nam	Mr. Hoang Chi Trung

Agenda

Reports of the Secretary-General on the Sudan

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

08-36743 (E)

The meeting was called to order at 10.15 a.m.

Opening remarks

The President: I should like at the outset of the meeting to extend on behalf of the Security Council a warm welcome to the new Permanent Representative of Belgium to the United Nations, His Excellency Mr. Jan Grauls. We are looking forward to working closely with him in the work of the Council.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan

The President: I welcome the presence of His Excellency Mr. Bruno Stagno Ugarte, Minister for Foreign Affairs of Costa Rica.

In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

It is so decided.

I invite Mr. Moreno-Ocampo to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

I now give the floor to Mr. Moreno-Ocampo.

Mr. Moreno-Ocampo: As in the past, I am grateful for this opportunity to give the Council clarity on the activities undertaken by my Office and on the activities planned.

This is an historic opportunity. As I brief the Security Council today in the Council Chamber, the Assembly of States Parties to the Rome Statute of the International Criminal Court is in session in New York, and Security Council members are in Africa. They have just met with the Government of the Sudan in Khartoum.

This is an historic opportunity. Ten years ago, countries from all over the world adopted the Rome Statute creating the International Criminal Court (ICC). They sent a new and powerful message: there can be no impunity for perpetrators of genocide, crimes against humanity and war crimes.

But three years ago, the Security Council referred the Darfur situation to the Court and thus sent an even more concrete message: there can be no impunity for perpetrators of massive atrocities in Darfur.

Today we have an historic opportunity to confirm those messages, to move from principles to action.

Massive crimes are still being committed in Darfur. Girls are still being raped. Children die as their schools are bombed. The entire Darfur region is a crime scene. Over the last five years, despite promises and denials, millions of civilians have been targeted by officials who vowed to protect them. Impunity reigns.

Today we have an historic opportunity to confront those massive crimes.

My Office received a mandate from the Council. This mandate is justice. I will fulfil my mandate. I have collected compelling evidence. The evidence will identify those most responsible for crimes against civilians in Darfur, in particular the Fur, Masalit and Zaghawa communities. I inform the Council that I will present a second case to the Judges of the International Criminal Court in July.

My Office has a duty not to intervene when national authorities are conducting national proceedings. That is the principle of complementarity. The Sudan claimed that it would investigate and prosecute perpetrators of crimes in Darfur. Various courts and investigative mechanisms were created. However, the Office has found no trace of Sudanese proceedings in relation to crimes in Darfur during the last three years. The Government itself has clarified that there were none.

In April 2007, the Judges of the International Criminal Court issued arrest warrants against Ahmad Harun, former Minister of State for the Interior, and Ali Kushayb, a militia/Janjaweed leader, for crimes against humanity and war crimes.

It was an opportunity for the Sudan to break the criminal system unveiled by the Court, to surrender the

indictees, to start proceedings against lesser perpetrators. This opportunity was lost.

The Sudan, a State Member of the United Nations, has the legal obligation and the ability to arrest and surrender Ahmad Harun and Ali Kushayb. I report today that the Government of the Sudan is not cooperating with the Court. There has been no improvement since December.

The Government of the Sudan is not complying with resolution 1593 (2005). The Government of the Sudan does not recognize the jurisdiction of the Court, a jurisdiction that the Security Council granted. As of today, and even to Council members in Khartoum, Sudanese officials insist that "the ICC has no jurisdiction over Darfur".

Impunity is not an abstract concept. Ahmad Harun is attacking the victims in the camps today. As Minister of State for Humanitarian Affairs, he is hindering humanitarian aid. As a member of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) oversight committee, he is affecting the deployment and safety of peacekeepers. As a member of the National Congress Party-Sudan People's Liberation Movement Committee, he was sent to Abyei to manage the conflict. Abyei was burned down, and 50,000 citizens were displaced.

The Sudanese Government accepted UNAMID peacekeepers and aid workers in Darfur. The same Government is promoting Ahmad Harun. The Sudanese Government tolerates the firefighters and promotes the arsonists at the same time. The international community cannot ignore the arsonists; if they remain, there will never be enough firefighters.

The Security Council has the power to ensure the cooperation of the Sudan. The issue of arrests has to be central in any conversation with the Sudan. It is the first step. The Council must make publicly clear that the two fugitive indictees and those who protect them will not benefit from any lenience or any support from the international community.

In December, I informed the Council that my Office was opening two new investigations. In our second investigation, we collected evidence showing a pattern of attacks by Sudanese officials against civilians, in particular against those 2.5 million people forcibly displaced into camps. In our third investigation, we focused on the Haskanita attack, attributed to rebels. Let me give you further details.

In Darfur, the evidence shows an organized campaign by Sudanese officials to attack civilians, with the objective of physically and mentally destroying entire communities. Over a period of five years, they have been relentlessly attacked throughout Darfur: attacked in their villages, attacked in the camps, their land usurped. The first phase of attacks in 2003 to 2004 affected 4 million people. Since 2005, villages are still being attacked.

What is the difference between those two phases? A simple one: there are fewer villages left to burn and loot, fewer civilians to terrorize and kill. But the tactics remain the same: the Sudanese army, in coordination with the air force and militia Janjaweed, attacks civilians. In 2008 alone, it has displaced more than 100,000 civilians from the villages of Abu Suruj, Sirba, Seleia, Aro Sharow, Kandare, Kurlongo and Sheged Karo. Schools, markets and water installations have been hit. Homes have been burned. Such attacks are sufficient to demonstrate to the 2.5 million people displaced their total vulnerability. Such attacks are calculated to drive entire groups to inhospitable areas, where they die immediately, or into camps, where they die slowly.

In the camps, crimes and insecurity are organized. Far from being disarmed, the militia Janjaweed are integrated into the Sudanese security apparatus and stationed in the vicinity of camps. Rapes of women are systematic. The health consequences and the perceived shame of rape are, in effect, destroying physically and biologically the communities. Destitution is organized. Surveys — when Sudanese officials agree to their release — indicate that malnutrition rates exceed emergency thresholds, especially for children under five. Community leaders and teachers are the first to be targeted during attacks. This is a policy to ensure that all links binding communities together are torn.

Usurpation of land is systematic. Sudanese officials are not facilitating the return of displaced people. Sudanese officials are facilitating the settlement of groups affiliated with militia Janjaweed on Fur, Masalit and Zaghawa land. The census is crystallizing the situation, potentially creating a new demography. Displaced persons are concerned that new occupants could gain rights to the land, and are

resisting the census. In Kalma, Karandj and Abozr camps, violence has been used to force the population to accept the census. Combined with the impunity of perpetrators and the official denial of the crimes, the resulting mental harm to victims is devastating. The groups disintegrate.

Sudanese officials are protecting the criminals and not the victims. Denial of crimes, cover-ups and attempts to shift responsibility have been another characteristic of the criminal plan in Darfur. We have seen it before. The Nazi regime invoked its national sovereignty to attack its own population, and then crossed borders to attack people in other countries. In my own country, Argentina, the military dictatorship had a well-documented strategy to disguise the criminal system of disappearances. They denied the crimes, they minimized their crimes, they denied the involvement of members of the Government in the crimes, and finally they proposed to forget the crimes and focus on political solutions. Remember also Karadzic's Directive 7, instructing his army to create a situation of total insecurity with no hope of survival for the people of Srebrenica, while making sure to avoid international outcry. The main instruction was to discreetly reduce support to the United Nations Protection Force (UNPROFOR).

There is no end to the imagination employed in such cover-ups. In my written report I have provided statements of Sudanese officials to the effect that the situation in Darfur is stable, that the provision of aid and the deployment of peacekeepers is proceeding smoothly, that only 10,000 people have died since the beginning of the conflict, that all attacks find their origin in rebel acts or even mistakes by UNAMID and that political negotiations will solve all problems. The evidence shows a different picture.

The evidence shows that the commission of such crimes on such a scale, over a period of five years and throughout Darfur, has required the sustained mobilization of the entire Sudanese State apparatus: the coordination of the military, security and intelligence services, the integration of the Janjaweed militia, the participation of all ministries, the contribution of the diplomatic and public information bureaucracies and the control of the judiciary.

Let me now address our third investigation: into the crimes committed against peacekeepers and aid workers, those who came to help Darfuris. The list of attacks is long. On 29 May in Al Fashir, the memorial for the 61 African Union (AU) peacekeepers who lost their lives in Darfur was unveiled. My Office is determined to bring those responsible to justice. The evidence is not yet sufficient to go to the judges, but we have information that the October 2007 killing of 10 African peacekeepers in Haskanita was committed by two rebel splinter factions. That requires corroboration. Requests for additional information were sent to the AU and the United Nations, as well as to individual States and others. Such requests are confidential, but allow me to request publicly that all actors respond as early as possible. The 23 May attack on Nigerian peacekeepers and the killing of a Ugandan peacekeeper make it all the more urgent to ensure accountability. Increased attacks targeting aid personnel and peacekeepers could lead us to extend the scope of the third investigation.

I am concerned as well about allegations of the recruitment of child soldiers. Child recruitment is a crime that can engulf entire generations in conflict. The first trial of the International Criminal Court will start this month, and it is precisely about child soldiers.

Let me now clarify for the Council the next judicial steps. I will proceed to the judges in July and present my evidence on who are those most responsible for the crimes described. It will be a public application. The decision will rest with the judges. In previous cases, the judges have taken from one to three months to decide on the merits of the evidence.

Before I conclude, let me address the issue of international cooperation. I want to thank all those who have responded to our requests for information — including on tracing the indictees — and all those who have publicly or in bilateral meetings with the Sudanese explained the importance of enforcing the warrants. Those States have helped the victims, the Court, the Council and the Sudan.

I am grateful for AU Chairperson Konare's efforts, and I look forward to working with his successor, Jean Ping. Deputy Prosecutor Bensouda has been invited to Sharm el-Sheikh. I have met, and will again meet with, the Foreign Minister of Tanzania, who is a steadfast supporter and the current President of the African Union.

I would like to underline the efforts of the Secretary-General to address with President Al-Bashir the obligation to execute the arrest warrants. Secretary-

General Ban Ki-moon, in working for a comprehensive solution in Darfur and the Sudan, has consistently shown his vision and conviction that respect for the lives of Sudanese citizens is at the centre of any such solution.

On 16 June, I will address the General Affairs and External Relations Council of the European Union. The Slovenian presidency and the European Parliament have been outstanding in putting impunity at the forefront of the European Union's agenda.

I have also met with the Secretary-General of the League of Arab States, as well as with many of its member States. They have played a key role as friends and neighbours of the Sudan and as supporters of international law and justice for all the citizens of the world. They provide aid to the victims, they provide resources to the peacekeepers, and they have lost soldiers. I confirmed to them that I will fulfil my mandate independently and impartially. Their respect is crucial to my Office.

Security Council members and all countries with strong ties with the Sudan can do more to bring justice to the Darfuris and the Sudanese people.

Let me conclude. A rebellion is going on in the Sudan. Under international law, a Government has the right and the responsibility to maintain control of its territory. There is no doubt about that. But there is no military justification for bombing schools, and no legal excuse for raping women. Those crimes have been carefully prepared and efficiently implemented. They are not mistakes. They are not inter-tribal clashes. They are not cases of collateral damage. They are, quite simply, criminal acts against civilians — unarmed civilians. Citizens from the Sudan are being deliberately attacked by Sudanese officials. In the words of Harun, the people of Darfur are the enemy. Their own State is attacking them. If the international community does not protect the Darfuris, they will be eliminated.

It takes a lot to commit massive crimes. It takes planning and organization. It takes commanders and many executioners. But mostly, it requires that the rest of the world look away and do nothing. The Council, when it requested my Office to intervene in Darfur, acted in a decisive way, thinking of the Darfuris but remembering also Rwanda and Srebrenica. At the Council's request, my Office will present new evidence exposing the facts and identifying those most responsible. Based on those facts, I ask the Security Council to send a strong message to the Government of the Sudan and to issue a presidential statement, requesting that it stop the crimes; requesting that it arrest Ahmad Harun and Ali Kushayb; requesting that all parties assist the Court; and requesting, simply, compliance with resolution 1593 (2005). A presidential statement will send such a message.

Silence has never helped or protected victims. Silence only helps the criminals.

The President: I thank Mr. Moreno-Ocampo for his briefing.

I now give the floor to the members of the Security Council.

Mr. Stagno Ugarte (Costa Rica) (*spoke in Spanish*): It is an honour for me to participate in this meeting of the Security Council on the situation in the Sudan, while just steps away from this chamber, 106 States Members of the United Nations are simultaneously meeting as an assembly of States parties of the International Criminal Court. In effect, just steps away from this chamber, there is a firm commitment to eradicating impunity for the most atrocious crimes perpetrated by evil. Just steps away from this chamber, there is a firm commitment to fight the banalization of evil.

Thus far, Prosecutor Luis Moreno-Ocampo of the International Criminal Court has submitted seven reports to the Security Council. Seven times, the Prosecutor has come to enumerate the atrocities that have occurred and are occurring in Darfur — coordinated and planned atrocities carried out against civilians who were not participants in any conflict. In the report he has submitted today, the Prosecutor has laid out the facts with absolute clarity. These are not an incidental by-product of war; they are a calculated crime. Seven times he has shared with the Council the degree of cooperation — or, to be more precise, non-cooperation — that the Government of the Sudan has offered. Seven times, pursuant to a mandate of this Council under resolution 1593 (2005), the Prosecutor has thoroughly fulfilled his responsibility.

We would like to be able to say the same of this Council. The actions of the Council, and thus of the member States gathered around this table that give life to it, have clearly been inadequate to the situation in Darfur. Internal differences and political calculations

have thus far impeded effective action by the Council. What we can agree on, although it is not of much comfort, is that the Council has complied with the final paragraph of resolution 1593 (2005), in that it has remained seized of the matter. However, the perpetuation of the situation is in and of itself part of the problem, because as time passes, the Council runs the risk of accommodating evil as the graves continue to be filled in Darfur.

I exhort the Council to find a solution that adequately addresses the imperatives of both peace and justice. It certainly cannot continue with what, as time passes, seems to be a policy of appeasement of Khartoum and of indifference to the atrocities that are occurring in Darfur. The Council must stop delaying and subordinating the imperatives of justice to political calculations, or, to cite the Prosecutor, thinking that political negotiations will solve everything. Just as, in adopting resolution 1593 (2005), the Security Council had the political will to refer the situation in Darfur to the International Criminal Court, it must now act accordingly and demand surrender by Khartoum of the accused, Ahmad Harun and Ali Kushayb. By blatantly and repeatedly failing to comply with its obligations under resolution 1593 (2005), the Government of the Sudan is not only affronting the Court, but openly defying the authority of the Council and the binding nature of resolutions adopted under Chapter VII.

The Government of the Sudan is toying with us, toying with human dignity, toying with the authority of this Council. The appointment of Ahmad Harun as Minister of State for Humanitarian Affairs, as a member of the negotiating committee of the National Congress Party-Sudan People's Liberation Movement/ Army and as supervisor of the population census in South Darfur, among other responsibilities, is concrete evidence of the cynicism of the authorities in Khartoum. We can no longer afford to appease such cynicism.

The facts speak for themselves. We cannot plead ignorance. If, through indifference or for the sake of political convenience, this Council does not make its best effort to enforce the cooperation of Khartoum with the International Criminal Court and its surrender without further delay of Ahmad Harun and Ali Kushayb in conformity with resolution 1593 (2005), in the not-too-distant future we will once again be invoking our promise of "never again". We, the civilized world, made that same promise following the Holocaust, and more recently following events in Kampuchea, Bosnia, Rwanda or Kosovo, and are currently putting it to the test in the Sudan.

It may be uncomfortable to raise the failures and ghosts of the past, but at times we must recall them in order to avoid making the same mistakes. I therefore take the liberty of quoting some of the conclusions contained in the landmark independent reports prepared by the United Nations in response to previous situations in which the Security Council, above all, had the opportunity and responsibility to act.

Because of the limited time available, I will refer only to two reports and two previous situations, and make abbreviated references to some of the lessons learned from a past that we do not have the luxury of forgetting, no matter how uncomfortable it may be. I turn to those independent reports not only because Costa Rica endorses their conclusions and believes in their full applicability to the situation now before us, but also because we believe that they are the result of a dispassionate and detailed analysis of the errors of the past. We do so because we believe that, despite the specificities of each case, the lessons of Srebrenica and Rwanda, for example, should resonate with full force within this chamber. The ghosts of Srebrenica and Rwanda should awaken us to the fact that in the Sudan there are some who believe that the graves in Darfur are not yet sufficiently full.

Here is the first ghost. The Security Council should recall the contents of the report of the Secretary-General on Srebrenica of 15 November 1999. I would like to quote the conclusion of the report:

> "The cardinal lesson of Srebrenica is that a deliberate and systematic attempt to terrorize, expel or murder an entire people must be met decisively with all necessary means, and with the political will to carry the policy through to its logical conclusion." (*A/54/549, para. 502*)

Allow me also to refer to the following words of repentance contained in the report, which accurately describe what I hope many of us here think of the situation in Darfur:

> "Through error, misjudgement and an inability to recognize the scope of the evil confronting us, we failed to do our part to help save the people from the Serb campaign of mass murder. No one

> regrets more than we the opportunities for achieving peace and justice that were missed. No one laments more than we the failure of the international community to take decisive action to halt the suffering ... Srebrenica crystallized a truth understood only too late by the United Nations and the world at large: that Bosnia was as much a moral cause as a military conflict." (*ibid., para. 503*)

Lastly, fearing that we are heading towards a repetition of the past, allow me to highlight the following paragraph of the report of the Secretary-General on Srebrenica:

> "In the end, the only meaningful and lasting amends we can make to the citizens of Bosnia and Herzegovina who put their faith in the international community is to do our utmost not to allow such horrors to recur. When the international community makes a solemn promise to safeguard and protect innocent civilians from massacre, then it must be willing to back its promise with the necessary means. Otherwise, it is surely better not to raise hopes and expectations in the first place." (*ibid., para. 504*)

Second ghost. History repeats itself. The report of the Independent Inquiry commission of 16 December 1999 on the genocide in Rwanda learly attributes the failure of the United Nations Assistance Mission for Rwanda to "a lack of resources and a lack of will to take the commitment which would have been necessary to prevent or to stop the genocide" (*S/1999/1257, p. 30*). Although, since in the specific case of the Sudan we have budgeted some $2.126 billion for the African Union-United Nations Hybrid Operation in Darfur and the United Nations Mission in the Sudan peacekeeping operations, no lack of resources seems to apply, we still need, starting yesterday, to muster within the Security Council the political will needed to face up to the responsibilities that the tragedy in Darfur calls for. As the report also demonstrated — and I believe this to be particularly pertinent in light of the mission that has taken some Council members to Khartoum — it is a cause for concern that more "emphasis [was placed] on a cease-fire, more than the moral outrage against the massacres, which was growing in the international community" (*ibid, p. 41*).

Similarly, the report of the Independent Inquiry commission emphasized the dilemma that we are once again facing as to whether to negotiate with those in control, irrespective of the acts they may have committed. The commission did not doubt that, in its view,

> "the United Nations had an obligation to make absolutely clear to the members of the ... Government the individual responsibility which accompanies the commission of genocide and war crimes" (*ibid., p. 39*).

Finally, in a situation that is painfully similar to the one before us, the commission considered that "[t]he Security Council bears a responsibility for its lack of political will to do more to stop the killing" (*ibid., p. 37*).

In Costa Rica, currently a non-permanent member of the Council, we refuse to believe that we, the international community, are inevitably heading towards a new "never again". We are worried, however, by the apparently boundless capacity of some to face shame. We are likewise worried that the inability of the Council to respond to evil with dignity, promptly and with the full moral authority of the Charter of the United Nations could also be boundless in this specific instance. The Council knows of the evidence of the crimes committed; it knows that the guilty parties have been identified; and it knows which Government authorities protect and shelter them. All we need is for the States members of the Security Council to have the decency to muster the political will necessary to enforce the full compliance of resolution 1593 (2005) by the authorities in Khartoum. Enough appeasement — the time has passed to continue accommodating evil.

Allow me to end by highlighting the final paragraph of the report of the Secretary-General on Srebrenica, as it explicitly establishes that the imperatives of peace and justice are mutually supporting.

> "The men who have been charged with this crime against humanity reminded the world and, in particular, the United Nations, that evil exists in the world. They taught us also that the United Nations global commitment to ending conflict does not preclude moral judgements, but makes them necessary." (*A/54/549, para. 506*)

Costa Rica trusts in the International Criminal Court and would also like to trust in the capacity of the

Security Council to address this complex situation. That, however, will depend on the States members of the Council. As they know, Costa Rica is coordinating the drafting of a presidential statement on the issue before us. We hope that all — and I stress, all — States members of the Council will cooperate with us in sending a forceful message commensurate with the tragic events unfolding. The confidence that Costa Rica would like to have in the Security Council's effectiveness in this specific case will depend on whether or not we muster the decency to acknowledge the facts, to enforce full compliance with resolution 1593 (2005) and not to appease those who still feel that the graves in Darfur are not sufficiently full.

Mr. Grauls (Belgium) (*spoke in French*): Allow me at the outset to thank you, Sir, for your words of welcome and to express my pleasure at taking my place at the Security Council table. You can rely on my full support and that of my delegation.

I should also like to thank Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court, for his briefing. Belgium is particularly alarmed by the information it contains, as conveyed to us by the Prosecutor.

Belgium's position on the issue of Darfur is well known. The search for a comprehensive solution entails an approach comprised of four dimensions: the political, the military, as represented by the African Union-United Nations Hybrid Operation in Darfur (UNAMID), the humanitarian and the legal. We view the elements of that four-fold approach as being complementary to one another.

The fight against impunity is undoubtedly an end in and of itself, but it is not just that. The condemnation of those responsible for the most serious crimes — war crimes and crimes against humanity — may contribute directly or indirectly by promoting progress with respect to the other pillars of the comprehensive approach. It can do so directly by ensuring that no more harm can be done by those who, for example, impede the distribution of humanitarian assistance, the deployment of UNAMID or the political process. It can do so indirectly through the deterrence effect.

We must once again deplore not merely the lack of cooperation from the Government of the Sudan but even outright support for individuals who are the subjects of arrest warrants, in particular Mr. Ahmad Harun. I need hardly recall that resolution 1593 (2005), by which the situation in Darfur was referred to the International Criminal Court, was adopted under Chapter VII of the Charter. On the basis of the evidence presented by the Prosecutor, the Court decided — in full independence and based on the criteria set out in the Rome Statute — that the Sudan had undertaken no proceedings with respect to Mr. Harun or Mr. Kushayb in relation to crimes that are the subject of proceedings under way at the International Criminal Court.

The overall context in Darfur is of great concern. The prospects for the political process remain discouraging, and the recent escalation of violence, both by the rebels and by Government forces with the support of Janjaweed militias, targeting civilian populations, is particularly disturbing. People are undergoing unspeakable suffering, including displacements, killings, rapes and other violence.

It is at this difficult juncture that, for the reasons I have enumerated, the judicial path must be followed with determination. Crimes must not be denied: they must be identified through a rigorous, authorized judicial process. The Prosecutor's conclusion that a criminal plan, involving the entire State apparatus, exists is particularly alarming. If the existence of such a plan is established, those responsible must be brought to justice.

My delegation has taken note of the Prosecutor's intention to submit his evidence to the judges of the International Criminal Court soon. My delegation urges the Sudanese authorities to cooperate fully with the Prosecutor and the Court, as they are obliged to do under resolution 1593 (2005), by apprehending and transferring to The Hague the two individuals who are subjects of arrest warrants. More than a year after those arrest warrants were issued, it is time for the Security Council to remind the Sudanese Government of its obligation, under resolution 1593 (2005), to cooperate with the Court.

I recall too that this is also the position of the entire European Union, which, in its 31 March 2008 declaration, called on the Government of the Sudan to cooperate unconditionally with the Court. Belgium thus fully supports the draft presidential statement submitted by Costa Rica to that end.

The first indications from the Security Council mission that is currently in the Sudan do not make it

possible to detect any change in the position of the Sudanese authorities. Whatever the future decisions of the Court, and without prejudging such decisions, Belgium will continue to robustly urge the Security Council, consistent with its own decisions, do everything in its power to ensure that the decisions of the Court are implemented.

Mr. Skračić (Croatia): I would like to welcome the Prosecutor of the International Criminal Court (ICC), Mr. Moreno-Ocampo, to the Security Council and to thank him for his briefing and his detailed report. My delegation has listened carefully to the Prosecutor's message; he has left no doubt about who he believes is responsible for the situation in Darfur.

Croatia is very disappointed by the continued failure of the Government of Sudan to cooperate with the International Criminal Court. The appointment of the indicted ICC fugitive Mr. Ahmad Harun as Minister of State for Humanitarian Affairs in the Government serves as the most tangible proof of this and underlines a blatant disregard for the victims — but also for the Court and its Prosecutor and, not least, for the Security Council, which referred the situation in Sudan to the Court in its Chapter-VII resolution 1593 (2005).

Considering the gravity and clarity of the Prosecutor's report, my delegation takes the position that strong action by the Council is needed to solicit the cooperation of the Government of Sudan. In that regard, we support the Costa Rican draft presidential statement that has been circulated, and we thank the delegation of Costa Rica for its timely preparation.

My delegation reiterates its dismay at the situation, as expressed by the European Union declaration of 31 March 2008. It reiterates that the International Criminal Court is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as contributing to the preservation of peace and the strengthening of international security.

We understand the sensitivities on the ground and the importance of keeping all tracks on the move, including the political one. But we strongly believe that there can be no lasting — and especially, no comprehensive — peace without justice. Allowing impunity to persist is not a prudent way to seek political settlements.

So, once again we call on the Government of Sudan to comply with all relevant Security Council resolutions and to cooperate unconditionally with the ICC, as is requested in resolution 1593 (2005).

Finally, we would also like to reiterate the European Union announcement that the Union will support further measures against those who bear responsibility for Sudan's failure to cooperate with the International Criminal Court if that failure to cooperate continues.

Mr. Arias (Panama) (*spoke in Spanish*): Allow me at the outset to thank Prosecutor Moreno-Ocampo for introducing the striking — to say the least — report of the International Criminal Court (ICC), which examines in detail the implementation of resolution 1593 (2005). I take this opportunity also to welcome the presence of the Minister for Foreign Affairs of Costa Rica, my good friend His Excellency Bruno Stagno Ugarte, and to assure him that Panama shares the commitment of Costa Rica — and his own personal commitment — to the purposes of the United Nations and of the International Criminal Court; I thank him for his statement this morning.

I wish also to convey a warm welcome to the new Permanent Representative of Belgium, Ambassador Jan Grauls.

In March 2005, through the adoption of resolution 1593 (2005), the Security Council, for the first time, referred a specific case to the International Criminal Court under article 16 of the Rome Statute. That historic event gave the International Criminal Court the responsibility to ensure that the war crimes and crimes against humanity committed in Darfur would not go unpunished. The Court fully accepted the task and has undertaken a detailed investigation of those violations.

The result of the investigation led to arrest warrants being issued against Minister Harun and Mr. Kushayb for their alleged commission of war crimes and crimes against humanity. We trust that those investigations will identify those guilty of all crimes committed in Darfur, without distinction between authorities and rebels. However, after one year since the issuance of the warrants, the Government of the Sudan refuses to arrest and hand over those individuals in compliance with due process. Prosecutor Moreno-Ocampo has told us that, in addition to failing to enforce the decisions of the Court, the highest levels of

the Government of the Sudan are taking decisions to commit, deny and cover up crimes.

In that context, we must emphasize that all resolutions of the Council are legally binding for all States Members of the United Nations. The obligations that arise from resolution 1593 (2005) require the Government of the Sudan to cooperate with the International Criminal Court, regardless of whether or not it is a signatory of the Rome Statute. That is why we demand once again that the Government of the Sudan comply with its responsibility to the international community by arresting and placing those individuals in the Court's custody as soon as possible. On the other hand, as the Court's report has suggested, failure to do so and its consequences will lead to the perception of total impunity, which will only provoke more violence and complicate efforts to establish the conditions necessary for peace and security in Darfur.

Last October, in this very Chamber, we condemned the attack on the African Union mission base in the city of Haskanita, presumably by groups of rebels. The Council has also reiterated its concern at the ongoing violence in Darfur. Accordingly, Panama fully supports the decision of the Court to investigate two new cases to determine those responsible for persistent attacks on the civilian population, especially the Fur, Masalit and Zaghawa tribes, as well as the African Union and United Nations personnel responsible for protecting them. It is precisely such dedication, impartiality and integrity that will make the Court's work more relevant and welcome.

Panama cannot disregard Prosecutor Moreno-Ocampo's clear and dramatic description of the seizure of lands to which the people of Darfur have been subjected, or his warning that the violence against unarmed civilians, the impunity of the perpetrators of the violence and their protection by the Government could lead to the disappearance of the people of Darfur. If that is not genocide, I do not know what else to call it.

Panama calls on those countries that have signed the Rome Statute not just to comply with their obligations under it, but also to ensure that there is an end to impunity for war crimes and crimes against humanity. We also call upon those countries that have not signed the Rome Statute to do so. The International Criminal Court is an appropriate mechanism for bringing to trial and judging those responsible for war crimes and crimes against humanity.

Finally, Panama unconditionally supports the draft presidential statement presented by the Government of Costa Rica.

Mr. Spatafora (Italy): First of all, I would like to extend a very warm welcome to the Foreign Minister of Costa Rica, Mr. Bruno Stagno Ugarte. This is, for many of us, an opportunity to welcome Mr. Ugarte back to the Council for a day. As Permanent Representative of Costa Rica, Bruno Stagno left a very clear footprint that we are still following today. I think that, with his statement today, he has also left a deep footprint.

I also offer a warm welcome to the new Permanent Representative of Belgium, Ambassador Jan Grauls. We welcome him among us as a member of the family.

I wish to express my very sincere thanks to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, for his very clear, focused and appalling briefing.

Let me reiterate Italy's full and strong support for the International Criminal Court and the work of the Prosecutor. Italy fully appreciates the very difficult environmental circumstances in which the Prosecutor and his staff are conducting their investigation and wishes to renew its full confidence in him and his staff.

More than three years have elapsed since resolution 1593 (2005) was adopted, and we are being told once again that serious crimes continue to be committed against civilians in Darfur by all parties in a climate of impunity — total impunity.

Today's briefing is a source of deep concern for us. On the one hand, it reconfirms the need for a more robust and effective approach to the conflict in Darfur encompassing the humanitarian, security, political and rule of law dimensions. However, the pursuit of such a comprehensive approach cannot be grounds for further postponing full compliance with resolution 1593 (2005). We share the Prosecutor's view that bringing to justice those who are responsible for serious and continued violations of international humanitarian law and human rights law will greatly contribute to peace in Darfur.

Peace and justice are precisely what the victims are seeking and what the population of Darfur is expecting after more than 40 years of conflict. We can no longer fail to heed their call.

What is at stake is our credibility as an Organization and as States Members of the Organization. What is at stake is our responsibility. What is at stake is our accountability. Today, now, a few hundred yards from here, a round table is taking place that has been organized by the United Nations Development Fund for Women on resolution 1325 (2000) on women and peace and security. They are addressing the accountability gap, but to whom are we accountable? We are accountable to the women who are subject to the crimes that the Prosecutor has described. We are accountable to the children. We are accountable to those who suffer, as the Prosecutor has told us. It is therefore a question of consistency with the principles to which we have subscribed in the Charter of the United Nations, in the preamble of which we reaffirm our faith in the dignity and worth of the human person. As the Prosecutor said, given our responsibility and accountability, we have to move from principle to action. Therefore, we have here, in the words of the Prosecutor, an historic opportunity.

Since the establishment of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, the Security Council has consistently made it clear that massive human rights violations are per se a threat to peace that must be addressed by punishing individual perpetrators, as Foreign Minister Stagno Ugarte has so eloquently recalled. On that basis, as we know, the Council referred the situation in Darfur to the International Criminal Court under resolution 1593 (2005) in March 2005. That resolution must be fully implemented — and of this there has to be a strong awareness — including its provision that

> "the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution". (*para. 2*)

We are strongly concerned by the report we heard of continued lack of cooperation and by the fact that the arrest warrants have not yet been executed. Moreover, one of the individuals on the investigations still holds a prominent position in the Government.

As recalled by my Belgian colleague, on 31 March the European Union issued a declaration on the occasion of the third anniversary of the adoption of resolution 1593 (2005), calling on the Government of Sudan to cooperate unconditionally with the International Criminal Court and to surrender the two individuals for whom it has issued arrest warrants.

Italy too calls on the Government of Sudan and all other parties to the conflict in Darfur to comply with their obligations under all Council resolutions. Members will not be surprised if I recall here Article 25 of the Charter, which says; "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter". What I ask myself — and what I think all of us have to ask ourselves — is whether we are in the process of modifying the United Nations Charter by acquiescence, because what is now at stake is a modification of Article 25, an erosion day by day through acquiescence. And we know that acquiescence is a source of international law. So let us not be responsible for such an erosion.

Fighting impunity has rightly become one of the priorities of the international community, but that principle, which is at the core of the Rome Statute of the International Criminal Court, has yet to be translated into consistent practice. Darfur is a major test case of our ability, as I said before, to pass from words to actions, and I call on all stakeholders to make sure that this opportunity is not missed.

Finally, Italy fully supports a response by the Council to the Prosecutor's briefing in the form of the draft presidential statement presented by Costa Rica, which reaffirms resolution 1593 (2005) and the duty of all parties to the conflict in Darfur to cooperate fully with the ICC. We fully support that draft text.

Mr. Kleib (Indonesia): Let me start by joining previous speakers in welcoming the Prosecutor of the International Criminal Court (ICC), Mr. Luis Moreno-Ocampo, to the Council, and thanking him for his briefing on the implementation of resolution 1593 (2005). We would like also to welcome the presence of Mr. Bruno Stagno Ugarte, Foreign Minister of Costa Rica. We also warmly welcome the new Permanent Representative of Belgium in our midst.

Since the Prosecutor's last briefing, on 5 December of last year (see S/PV. 5789), the security and humanitarian situation in Darfur has continued to

deteriorate. The international community's efforts to help Sudan to address the Darfur situation are facing mounting challenges, the primary one being the intensifying armed clashes. All armed conflicts everywhere, without exception are accompanied by criminal acts, including serious crimes. Failure to achieve peace produces not only prolonged suffering but also the continuation of those crimes. Indonesia strongly condemns all gross violations of human rights and international humanitarian law. We condemn those who commit war crimes and crimes against humanity. Impunity must not be tolerated, and the perpetrators of those crimes must be brought to justice without unnecessary delay.

Here, we share the profound concern expressed in the Prosecutor's report with regard to ongoing crimes by all parties. The Prosecutor's briefing today noted intensifying criminal acts in Darfur, including the violent targeting of civilians, peacekeepers and aid workers, as well as their premises and equipment. However, the realities of both peace and justice will have to be taken into account in order to achieve a comprehensive and durable settlement in Darfur.

We therefore deeply regret the refusal by some of Darfur's rebel movements to participate in the political process led by the Special Envoys of the African Union and the United Nations. As a result, the political process initiated in Sirte more than seven months ago has faltered, while discussions of security at the technical level are being hampered by those same rebel movements.

We recall in this regard that the Security Council, in its presidential statement of 24 October 2007 (S/PRST/2007/41), had underlined its willingness to take action against any party that seeks to undermine the peace process, including by failing to respect such a cessation of hostilities or by impeding the talks, peacekeeping or humanitarian aid. The Council may indeed consider it timely to act upon that willingness.

My delegation regrets that no progress has been made in the cooperation between the ICC and the Government of Sudan. In the interests of justice in the long run, cooperation between the ICC and the Government of Sudan will have to be resumed if judicial processes in the Sudan and by the ICC are going to take place.

We note that the Prosecutor is proceeding with two new investigations, namely on crimes committed against peacekeepers and humanitarian personnel and on the mobilization of State apparatus to plan, commit and cover up crimes against civilians. We encourage investigations that are not only thorough but also comprehensive. Crimes committed by Darfur armed rebel movements, including the Haskanita incident, as well as other attacks against peacekeepers and humanitarian organizations, require thorough investigation as well. The international community, including the ICC, needs also to be seen as impartial in order to continue to play a constructive role.

My delegation strongly believes that Sudan's sovereignty must always be respected, but that sovereignty also comes with rights and responsibilities. In this regard, we underline the obligations of the Government of Sudan to comply with the provisions of resolution 1593 (2005). At the same time, it is Indonesia's position that the implementation of resolution 1593 (2005) and actions of the Prosecutor shall neither nullify the principle of complementarity nor absolve Sudan's national court of its responsibility regarding the perpetrators. We are confident that Sudan's national court will take up that responsibility. Cooperation with the ICC will be essential if Sudan is expected to investigate and prosecute the cases selected by the prosecutors. Indonesia strongly believes that the issue of cooperation by the Government of Sudan with the ICC should be addressed in a comprehensive manner, in the context of achieving durable peace and security.

Finally, my delegation stresses once again its appreciation of the Court's independence, as well as the Prosecutor's efforts to implement resolution 1593 (2005). It is our long-held view that once the Security Council refers a case to the ICC it should be obliged to respect the Court's independence and allow its legal processes to take their due course.

Mr. Koudougou (Burkina Faso) (*spoke in French*): At the outset, let me warmly welcome His Excellency the Minister for Foreign Affairs of Costa Rica. I also warmly welcome His Excellency the new Permanent Representative of Belgium, who has just joined us. I wish him every success in his new functions.

Let me also welcome Mr. Moreno-Ocampo and thank him for the briefing he has just given us. My delegation takes note of the report he has submitted to us. As a party to the Statute of the International

Criminal Court and as a member of the Security Council, Burkina Faso has closely followed the activities of the Court. It attaches the greatest importance to its efficient functioning and to compliance with Council resolutions.

Given the complexity of the conflict in Darfur and the seriousness of the crimes at issue, the task of the Court is very delicate and difficult. That is evidenced by the fact that almost two years elapsed between the opening of the initial inquiry, on 1 June 2005, and the issuance of the first arrest warrants, on 27 April 2007. It is for that reason that this matter as a whole must be addressed with the highest degree of caution, rigour, impartiality and patience, while the approach must be strictly legal.

We regret the delays experienced by the mechanisms established by the Government of the Sudan to prosecute the perpetrators of crimes. Given that those mechanisms must play an important role in revealing the truth and prosecuting the guilty, we call on the Government of the Sudan to take all the necessary steps to ensure that they begin to function quickly and effectively.

My delegation believes that no solution must be excluded and no effort spared to shed light on the crimes committed in Darfur and to prosecute the perpetrators. However, those goals cannot be achieved unless the Government of the Sudan and the Prosecutor of the International Criminal Court maintain a constructive dialogue and strengthen their working relationship.

As indicated in paragraph 46 of the Prosecutor's report, a number of States and international organizations — including the African Union and the League of Arab States — are cooperating with the Court. That proves that the international community is concerned about the crimes committed in Darfur and the crucial need to ensure the protection of civilians in the region and throughout the Sudan.

Despite numerous efforts by the United Nations and the whole of the international community, the conflict in Darfur is continuing, with civilians being the first and principal victims. We therefore once again appeal to all actors to respect the lives of civilians and to allow humanitarian access, in accordance with their obligations under legal instruments on the protection of human rights and international humanitarian law.

In that regard, we recognize that the Government of the Sudan is primarily responsible for the security of its civilians. We nevertheless believe that significant progress in the deployment of the African Union-United Nations Hybrid Operation in Darfur will contribute to alleviating the suffering of civilians in Darfur.

The crimes committed in Darfur, as elsewhere, should not go unpunished. To that end, all parties should cooperate with the International Criminal Court in order to render justice to the victims and to ensure that the perpetrators are punished.

Nevertheless, the only way to put an end to those crimes continues to be the advent of lasting peace in Darfur, in the Sudan in general and in the subregion. We urge the participants in the various conflicts to dedicate themselves to that goal; and we call on neighbouring countries, regional and subregional organizations and the entire international community to assist them in good faith to that end.

Mr. Gouider (Libyan Arab Jamahiriya) (*spoke in Arabic*): I would like to welcome the presence among us today of the Minister for Foreign Affairs of Costa Rica and the new Permanent Representative of Belgium. I should also like to join speakers who have preceded me in welcoming Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), as well as to thank him for his briefing.

There is no need to emphasize my country's commitment to combating impunity and its rejection of compromising with perpetrators when it comes to enforcing the law. However, we know how difficult it is to achieve those goals, as we are aware of the delicate and confidential responsibilities entrusted to a prosecutor's office required by a legal mandate and professional obligations to carry out a sober prosecution that avoids condemning prior to trials, presents findings immediately following thorough investigations and closely scrutinizes diverse pieces of evidence, whether corroborating or exculpatory in nature.

The report that has been presented to us refers to ongoing investigations. Many paragraphs of the report contain diverse legal and political accusations against the highest organs of a State and its military and security machinery. In many cases, those accusations are based on press and political reports. To date, there have been no findings or conclusions with regard to

investigations into the practices of the rebel movements. In short, the issue has been presented as if it had to do with the pattern of behaviour of a State obsessed solely with the destruction of the basis for its existence, namely, its people and their tribal and social fabric.

My country's experience has taught us that the intensity of the language used in the statement invoking resolution 1593 (2005) will undermine the environment of cooperation and assistance called for both by the resolution itself and the report that has been presented to us. It also risks undermining opportunities to strengthen cooperation in our work in the context of the Council's current mission to the Sudan. We know that, by its very nature, cooperation is a dynamic process that can take place only through calm dialogue and mutual confidence, regardless of differences with the Sudan and its positions or the Sudan's commitment to the Rome Statute and its application. There is no hope that mutual confidence will prevail while national legal proceedings are being marginalized. In conformity with the Rome Statute, the competency of the ICC complements the national legal system.

Along with the Sudan's cooperation, we had expected that the Court and the Office of the Prosecutor would have made additional efforts to promote the rule of law, protect human rights and combat impunity in Darfur. The resolution encouraged it, highlighting the universality of the ICC and its proceedings and furthering its goals.

The Council's referral of the Darfur case to the Court, in our view, was not prompted by political motivations or with the intention of interfering in the Sudan's affairs through a technical legal process, the politicization of which is in no one's interest. That is particularly true since the referral was not made at the expense of a comprehensive consideration of the situation by the Council that would take into account the balancing of its numerous political, security and humanitarian priorities.

We agree that peace and justice are indivisible. Yet how can justice be achieved? How will the Sudanese people view such justice, meted to all its factions, without exception, including the victims of the rebel movements? It is a political process led by the United Nations, which respects the sovereignty of Member States, that will achieve harmony, stability and security by addressing in all earnest the underlying causes before the symptoms.

The strong message expected of the Council today must, in our view, focus on that process and its progress by all means and inclusive of all parties. That is what my country has tried to achieve in the course of recent years; it is what we are trying to achieve in Geneva in the framework of noble regional and international efforts, which we hope will succeed and bear fruit.

Mr. Sangqu (South Africa): At the outset, allow me to thank the Minister for Foreign Affairs of Costa Rica for his participation in this Council meeting today. We also wish to welcome the new Permanent Representative of Belgium to the Council.

Allow me to express the appreciation of my delegation to the Prosecutor of the International Criminal Court (ICC), Mr. Moreno-Ocampo, for his statement before this Chamber and in particular for the important work that he is doing.

South Africa is a member of the ICC and we remain committed to supporting its work. As we have stated before in this Chamber, we see the Court as central to ending impunity for international crimes and to establishing conditions under which justice and the rule of law can be maintained. The ICC, through its ability to deter the further commission of international crimes, serves as an advocate of adherence to the rule of law, and thus we expect cooperation with its work.

We are acutely aware of the challenges facing the Prosecutor, arising primarily from the fact that the ICC does not have its own police force or army to execute its warrants of arrest and is therefore entirely dependent on the cooperation of States in that regard. It would seem to us that there is a responsibility incumbent upon the Security Council to demand the cooperation of States, particularly in instances in which the Council has referred cases to the Court.

In resolution 1593 (2005), the Council called upon the Government of the Sudan and all other parties in Darfur to cooperate fully with and provide necessary assistance to the Court and the Prosecutor. In that regard, we note with regret that there has not been any progress with regard to the ICC-issued arrest warrants. We therefore urge the Government of the Sudan and other parties involved in Darfur to cooperate fully with the ICC. There can be no sustainable peace without

justice in Darfur, and it is vital to bring to justice those accused of bearing the primary responsibility for the crimes committed.

We also note with disappointment that, since the Prosecutor's previous report to the Council, the situation in Darfur has not improved and civilians continue to be targeted. South Africa continues to support a comprehensive approach towards the resolution of the conflict in Darfur, including the political, security, humanitarian and judicial processes. Only progress on all those fronts will secure sustainable peace for the people of Darfur as they are subjected to persecution, abuses and violations of fundamental human rights.

It is for that reason that we support a declaration from the Security Council on this issue.

Mr. La Yifan (China) (*spoke in Chinese*): China would like to thank Prosecutor Moreno-Ocampo for his briefing. China has noted that the Office of the Prosecutor has pursued its communication with the neighbouring countries of the Sudan and the African Union and is continuing its investigation in the case of a peacekeeper who was attacked in September 2007. China appreciates the efforts of the Office of the Prosecutor to seek solutions to impunity in Darfur.

China follows closely the situation in Darfur. It is regrettable that the conflict has continued in Darfur. It is all the more heartbreaking to see, as a result, the deterioration of the humanitarian situation. China condemns atrocities against human rights and international humanitarian law and supports a constructive role for the International Criminal Court (ICC) in appropriately resolving the problem of impunity in Darfur.

As the Prosecutor points out in his report, the ICC is a supplement to the domestic judicial system of the State. China hopes that the Sudanese Government will, under the precondition that the domestic judicial system be the main channel, enhance its communication with the ICC, strengthen cooperation, establish mutual trust and jointly resolve the problem of impunity in Darfur.

We believe that only with the improvement of the situation and political stability can there be a solution to the problem of impunity and can judicial fairness be fundamentally realized. At present, the situation in Darfur does not allow for optimism. Work in all fields faces challenges. The international community should continue its two-track strategy and focus on the political process and peacekeeping deployment. Work in all fields needs mutual cooperation and reinforcement rather than division and isolation.

China understands that some countries are eager to resolve the question of impunity, but it is not realistic to do so in a hurry. In the broader picture, other areas are facing difficulties, and it is thus impossible for the judicial sphere to achieve isolated, quick and substantive progress. China hopes that all parties will cooperate with one another and move in the same direction so as to achieve a comprehensive solution to the question of Darfur as soon as possible.

Mr. Kuzmin (Russian Federation) (*spoke in Russian*): Allow me to thank the Prosecutor of the International Criminal Court, Mr. Moreno-Ocampo, for his briefing and his seventh report on measures to investigate the situation in Darfur in accordance with resolution 1593 (2005). We commend the efforts of the Office of the Prosecutor to strictly abide by its mandate, to assess events in that Sudanese province from an exclusively a legal standpoint, and to independently and impartially carry out its functions to establish the truth.

The fight against impunity is important. However, in our view, it must be carried out in direct linkage with the overall efforts to restore peace in the Sudan.

Carefully weighed and prudent action is called for if we are to avoid further complications on the path towards a settlement in Darfur. In each individual case, the right balance must be struck between the requirements of personal responsibility and the interests of the peace process. In our view, that is not an easy task, but it is possible.

The Russian Federation deeply regrets and is concerned by the information contained in the report of the Prosecutor of the International Criminal Court with respect to ongoing violence in Darfur. We anticipate that the outcome of the current Security Council mission to countries in Africa, including the Sudan, will give us a more detailed picture of events there. A great deal has been said today about problems in establishing cooperation between the Court and the Government of the Sudan, which leads us to conclude that there are several reasons underlying the current situation. Instead of increasing unilateral pressure on

the Sudanese authorities at this politically sensitive phase, we might perhaps do better to focus our efforts on measures to restore mutual trust and establish dialogue.

The principle of objectivity calls for a comprehensive assessment of the actions of all parties to the conflict. In that regard, we listened most carefully to the information provided on the steps taken by the investigation to clarify the circumstances of the attack on African Union peacekeepers in Haskanita. We note that the attack was only one among several episodes that have threatened the lives of those who are on a noble mission in the region. There must be a full-fledged investigation into all such incidents. The initial steps taken by the Office of the Prosecutor in that respect clearly deserve support. At the same time, we are of the view that the bulk of the effort lies ahead.

Mr. Lacroix (France) (*spoke in French*): I, too, should like to thank the Minister for Foreign Affairs of Costa Rica for his participation in this debate, and to pay tribute to his country's activities on behalf of the International Criminal Court (ICC) and the fight against impunity.

I join with those who have welcomed the new Permanent Representative of Belgium, Ambassador Jan Grauls.

I thank the Prosecutor of the International Criminal Court, Mr. Moreno-Ocampo, for the very detailed and specific briefing he made in compliance with resolution 1593 (2005). I would recall that the Security Council sought, in adopting that resolution, to make the fight against impunity and crimes committed in Darfur essential elements of the solution to the threat to peace and security in the Sudan and the region. It was in the spirit of justice, and to accomplish its mission to re-establish peace and security, that the Council referred the issue to the ICC and requested the Prosecutor to investigate the situation in Darfur since 1 July 2002, acting under Chapter VII of the Charter and his mandate under article 13 of the Rome Statute. France fully supported that decision, which demonstrated that the missions of the Security Council and the International Criminal Court are deeply complementary. Indeed, resolution 1593 (2005) is based on the fact that the crimes committed in Darfur are of such gravity that, according to the preamble of the Rome Statute, they threaten the peace, security and well-being of the world.

Unfortunately, the picture painted by Mr. Moreno-Ocampo's report is very similar to that of last December. Crimes that fall under the International Criminal Court's competence and within the scope of resolution 1593 (2005) continue to be committed in Darfur. The Sudanese Government is not cooperating with the Court and has taken no measures to execute the arrest warrants of 27 April against Ahmad Harun, former Minister of State for the Interior and current Minister of State for Humanitarian Affairs, and Ali Kushayb, a militia Janjaweed leader, for crimes against humanity and war crimes. Mr. Harun has even been given new and important official responsibilities and is active publicly. Ali Kushayb is under no investigation and is now back on active duty. Those two people continue to be involved in operations against civilians.

In paragraph 2 of resolution 1593 (2005), the Security Council decided "that the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor". The Prosecutor's report makes it clear that the Sudanese Government is not complying with that obligation. Its discussions with the Security Council's mission to the Sudan in recent days confirm that it intends not to do so. It thereby not only refuses to bring two major criminals to international justice, but is also rejecting the Council's authority and flouting its obligations as a Member of the United Nations. That is doubly unacceptable.

The Security Council must support the Prosecutor's activities in the context of the mission with which it has entrusted him, especially now that he has announced the introduction to the Court of new evidence against those responsible for crimes against civilians in Darfur. The Security Council must also firmly defend its authority and that of the Charter of the United Nations. It must demand respect for resolution 1593 (2005), cooperation from the Sudanese Government with the Court, and the execution of the arrest warrants against Ahmad Harun and Ali Kushayb. The delegation of France is thus in favour of the Security Council's adoption of a statement clearly recalling the Sudan to its obligations. More generally, we expect the Sudan to implement all the Council's resolutions that concern it.

Finally, I emphasize that France fully supports the European Union statement of 31 March, issued on the anniversary of the adoption of resolution 1593

(2005), which remains fully valid. I recall that, in its statement, the European Union called on the Government of the Sudan to cooperate unconditionally with the International Criminal Court and to hand over the two individuals subject to arrest. It also affirmed that, in the case of non-compliance with resolution 1593 (2005), the Union would support the adoption of further appropriate measures against those responsible for the Sudan's lack of cooperation with the Court.

Mr. Hoang Chi Trung (Viet Nam): First, please allow me to join others in conveying our warmest welcome to the Foreign Minister of Costa Rica and to the new Permanent Representative of Belgium.

My delegation wishes also to thank Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for presenting his seventh report to the Council pursuant to resolution 1593 (2005).

Together with the latest reports of the Secretary-General on the Sudan, in document S/2008/267, and on the deployment of the African Union-United Nations Hybrid Operation in Darfur, in document 2/2008/304, the information brought to the attention of the Security Council by Mr. Moreno-Ocampo today further underlines the fact that the situation in Darfur, as well as the implementation of the Comprehensive Peace Agreement in the Sudan, remain highly complicated. My delegation shares the assessments in the Secretary-General's reports and expresses its grave concern over the reported attacks against civilians and humanitarian forces in Darfur. We also fully acknowledge that continued efforts are needed to create conditions favourable to the peace process, including promoting the trust and cooperation of all concerned parties in the Sudan. We strongly support the United Nations activities, including the missions mandated by the Security Council to help bring about peace, security and stability in the Sudan.

Fighting impunity for violations of international humanitarian law and human rights law in Darfur is part of the comprehensive endeavour for peace and national reconciliation in the Sudan. We agree that justice for the victims of such violations is a component of a long-term and sustainable peace in the Sudan. At the same time, we believe that the application of justice must respect legal principles and should be sensitive to the complex and volatile situation in the country.

By resolution 1593 (2005), the Security Council referred the situation in Darfur since 1 July 2002 to the ICC Prosecutor and requested the Government of the Sudan and all other parties to the conflict in Darfur to cooperate with the Court. The Council also encouraged the Court, as appropriate and in accordance with the Rome Statute, to support international cooperation with domestic efforts to promote the rule of law, protect human rights and combat impunity in Darfur. For this judicial process to be successful, the international community should try to find appropriate ways to help promote further cooperation and participation by the Sudan, as a sovereign State, with the ICC, as an independent international judicial body which, in accordance with its Statute, has a jurisdiction which is complementary to national jurisdictions. Confrontational attitudes and mistrust are not helpful and should be avoided.

Viet Nam encourages the Government of the Sudan to step up the efforts of judicial bodies in the Sudan in exercising national criminal jurisdiction relating to violations of international humanitarian law and human rights law in Darfur, including through cooperation with the ICC and with other countries. We call on all parties to armed conflict in Darfur to abide by national and international law and to participate in the Darfur Peace Agreement and in the peace process jointly led by the United Nations and the African Union. The achievement and consolidation of peace and stability in the Sudan will provide favourable conditions for promoting the rule of law and combating impunity.

Mr. Quarrey (United Kingdom): We join others in welcoming His Excellency the Foreign Minister of Costa Rica to today's briefing. His presence reflects Costa Rica's strong leadership on this issue. We also welcome the new Permanent Representative of Belgium.

And, of course, we welcome Prosecutor Moreno-Ocampo back to the Security Council today. We thank him for his briefing and for his written report. We commend him for his continued and untiring efforts, together with his team, to implement the mandate conferred upon the International Criminal Court (ICC) by the Security Council in resolution 1593 (2005) to investigate violations of international humanitarian law in Darfur. The United Kingdom fully endorses the Prosecutor's observation, which was also stressed by many Council members in our debate six months ago, that ending impunity is an essential component of a

solution in Darfur. That was the primary reason for the adoption of resolution 1593 (2005).

It is therefore deeply disturbing to read, and to hear in detail again from the Prosecutor today, reports of continuing violence in the region. It is clear that the humanitarian situation remains very grave. There is an urgent need to end the cycle of violence in Darfur, including the ongoing targeting of civilians, sexual violence, attacks on peacekeepers and humanitarian personnel and the hindrance of humanitarian aid.

As the Prosecutor notes in his report, there can never be any excuse for bombing schools or raping women and girls. All parties to the conflict should cease acts of violence and work together towards the creation of a lasting peace. The ICC, as an independent judicial institution, has a vital role to play in efforts to combat impunity, through its investigation of crimes in Darfur. Those accused of the most serious crimes must be brought to justice. We endorse what His Excellency the Foreign Minister of Costa Rica said about impunity and the principle of "never again".

We call upon all parties in the conflict in Darfur to cooperate fully with, and provide all assistance to, the ICC and its Prosecutor, as they are required to do by resolution 1593 (2005). That obligation extends to the Government of Sudan, so we are gravely concerned to hear that there has been no change, since the Prosecutor's last report, in the Government of Sudan's attitude towards the ICC investigation. It is now more than a year since the arrest warrants for Ahmad Harun and Ali Kushayb for alleged crimes against humanity and war crimes were issued, yet no action has been taken by the Government of Sudan to execute the warrants: the individuals remain at large. We call upon the Government of Sudan to immediately execute the arrest warrants for both of those suspects and to provide all necessary cooperation to the Court.

As I said at the outset, the Security Council conferred a mandate on the ICC to investigate the situation in Darfur. The Prosecutor has to work strenuously to implement that mandate. The Security Council should respond by demonstrating clearly and publicly through a presidential statement that the ICC Prosecutor has the full backing of the Security Council in his efforts to implement resolution 1593 (2005).

The President: I shall now make a statement in my capacity as representative of the United States.

We appreciate the report of Prosecutor Moreno-Ocampo. The violence in Darfur must end, and those who have committed atrocities, genocide, war crimes and crimes against humanity in Darfur must be held accountable and be brought to justice. With that in mind, I would like to make three points.

First, we share the Prosecutor's assessment that the situation in Darfur remains alarming and that accountability for past and present crimes against the people of Darfur is needed to enhance security and to send a warning to individuals who might resort to brutality as a way of achieving their aims.

Secondly, we also share the concern about the continuation of attacks, not only on displaced persons and other innocent civilians, but also on the African Union-United Nations Hybrid Operation in Darfur, United Nations personnel and international aid and relief workers. Violence and criminality against those who came to help the suffering people of Darfur is barbaric and intolerable. Impunity for such acts, as the Prosecutor's report notes, is an element in feeding the climate of violence, and it must end.

Thirdly, the United States continues to be deeply committed to peace, stability and the provision of humanitarian aid for the people of Sudan. Since the start of the Darfur crisis, the United States has provided more than $4 billion in humanitarian and peacekeeping assistance to Sudan, including more than $400 million to build 34 base camps for peacekeepers in Darfur and $100 million to train and equip African peacekeepers in Darfur.

The United States strongly believes that those responsible for the acts of genocide, war crimes and crimes against humanity committed in Darfur must be held accountable and be brought to justice. We look forward to continuing to work with other members of the Council on necessary steps, including working with Costa Rica on a draft presidential statement to achieve that important objective.

I now resume my functions as President of the Security Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 12.10 p.m.

United Nations S/PV.5906

Security Council

Distr.: General
9 June 2008

Original: English

Official communiqué of the 5906th (closed) meeting of the Security Council

Held in private at Headquarters, New York, on Monday, 9 June 2008, at 10 a.m.

In accordance with rule 55 of the provisional rules of procedure of the Security Council, the following communiqué was issued through the Secretary-General in place of a verbatim record:

"On 9 June 2008, the Security Council, pursuant to annex II, sections A and B of resolution 1353 (2001), held its 5906th meeting in private with the troop-contributing countries to the United Nations Peacekeeping Force in Cyprus.

"The Security Council and the troop-contributing countries heard a briefing under rule 39 of its provisional rules of procedure by Mr. Tayé-Brook Zerihoun, Special Representative of the Secretary-General for Cyprus and Head of the United Nations Peacekeeping Operation in Cyprus.

"Members of the Council, Mr. Zerihoun and representatives of participating troop-contributing countries had an exchange of views."

08-37308 (E) 090608

United Nations S/PV.5907

Security Council

Sixty-third year

Provisional

5907th meeting

Wednesday, 11 June 2008, 11 a.m.

New York

President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Grauls
	Burkina Faso	Mr. Koudougou
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Ballestero
	Croatia	Mr. Vilović
	France	Mr. Lacroix
	Indonesia	Mr. Kleib
	Italy	Mr. Mantovani
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Panama	Mr. Suescum
	Russian Federation	Mr. Churkin
	South Africa	Mr. Sangqu
	United Kingdom of Great Britain and Northern Ireland	Mr. Quarrey
	Viet Nam	Mr. Le Luong Minh

Agenda

The situation in Afghanistan

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

08-37563 (E)

The meeting was called to order at 11.10 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Afghanistan

The President: I should like to inform the Council that I have received a letter from the representative of Afghanistan, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Tanin (Afghanistan) took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council also have before them document S/2008/376, which contains the text of a draft resolution submitted by Afghanistan, Belgium, Croatia, France, Italy, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

It is my understanding that the Security Council is ready to proceed to the vote on the draft resolution before it. If I hear no objection, I shall now put the draft resolution to the vote.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Belgium, Burkina Faso, China, Costa Rica, Croatia, France, Indonesia, Italy, Libyan Arab Jamahiriya, Panama, Russian Federation, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1817 (2008).

I now give the floor to those members of the Council who wish to make statements following the voting.

Mr. Lacroix (France) (*spoke in French*): France welcomes the Security Council's unanimous adoption of resolution 1817 (2008) on combating the trafficking in chemical precursors of heroin in Afghanistan, which is one part of the overall fight against drug production and trafficking, on the eve of the international conference in support of Afghanistan, which will be held in Paris tomorrow, 12 June 2008. The conference reflects France's renewed commitment to Afghanistan, as decided upon by the President of the French Republic, Mr. Nicolas Sarkozy. Its primary aim is to reaffirm the international community's political and financial support for reconstruction in Afghanistan. It will also serve to review the objectives and approaches of donors, in the context of its consideration of the Afghanistan Compact adopted at the London Conference in 2006.

The Paris conference will give the Afghan Government an opportunity to present its national development strategy to the international community. France shares the hope expressed by the Special Representative of the Secretary-General for Afghanistan, Mr. Kai Eide, that the conference will make it possible to craft a new agreement between the international community and Afghanistan. It is in that spirit of enhanced partnership that the issue of combating the drugs trade will be addressed at the conference; clearly, this is a major cause of concern for the international community. Drug trafficking in Afghanistan undermines efforts to attain good governance. It is a source of financing for terrorism and fuels threats to the country's stability and security.

Here, France fully supports Afghanistan's National Drug Control Strategy and international efforts to combat the scourge of drugs. It is particularly important to support regional initiatives. Indeed, the entire international community should act to shoulder this collective responsibility. We particularly commend the efforts and sacrifices made by Afghanistan and its neighbours to combat drug trafficking.

Combating drug trafficking requires an integrated approach taking into account all dimensions of the phenomenon. For that reason, the London Pact sets out cross-cutting priorities involving security, governance and economic and social development. In particular,

developing alternative livelihoods is essential to success, as stressed in the resolution we have just adopted.

France has sought an emphasis by the Security Council on a particular element of the problem of narcotics trafficking: combating trafficking in the chemical precursors that are essential for processing opium into heroin. That is a weak link with respect to which we can and should step up our endeavours. A system already exists for monitoring the trade in chemical precursors; here, it should be emphasized that the vast majority of these materials are used for perfectly legitimate purposes. That system, which seeks to prevent the diversion of these precursors for illicit purposes, is based on the 1988 Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Paris Pact initiative, begun in 2004 by the United Nations Office on Drugs and Crime in the context of follow-up to the Conference on Drug Routes from Central Asia to Europe, includes specific section on the trafficking of precursors. It is also a good framework for enhancing cooperation in this field.

But increased efforts by all are needed to use existing mechanisms more effectively. We hope that the adoption of today's resolution will provide fresh political impetus that will mobilize the international community, in support of Afghanistan and its neighbours and in close partnership with the relevant agencies, such as the United Nations Office on Drugs and Crime and the International Narcotics Control Board, on the issue of combating the trafficking in chemical precursors in Afghanistan.

The adoption of this resolution on the eve of the Paris conference indicates the international community's determined and unanimous commitment to combat drugs — of which Afghanistan itself is the primary victim. I thank the Afghan authorities for their unflagging support for our initiative. My thanks go also to the other countries of the region for their constructive partnership in discussing the text of the resolution, as well as to all members of the Security Council for their very constructive participation, including those that, along with Afghanistan, agreed to sponsor the draft resolution we have just adopted.

Mr. Churkin (Russian Federation) (*spoke in Russian*): The Russian Federation welcomes the Security Council's adoption of resolution 1817 (2008) on controlling the illicit trade in chemical precursors used for drug production in Afghanistan. We consider that this complements the Security Council's systematic efforts to stabilize the situation in Afghanistan and to bolster international support for its Government in the fight against the threat posed by terrorism and drugs. The Council's decision is especially significant in the light of the international conference in support of Afghanistan, to be held tomorrow in Paris. We hope that the present resolution will help give further impetus to enhanced international action on a comprehensive solution to the Afghan drug problem, including success in carrying out the tasks agreed upon at the Ministerial Conference organized in Moscow in 2006.

The expanded production of Afghan heroin, which is gaining a monopoly on the world drug market, is giving rise to growing demand for supplies of chemical precursors. Without a smoothly functioning international system for controlling the movement of precursors, it will be impossible to halt the trend towards growing drug production and the consequent financing of terrorist groups in Afghanistan.

The Security Council has sent a clear signal in support of smoother and more efficient international efforts in this field. We believe it is fundamentally important to pursue efforts to strengthen control of transnational movements of funds derived from illicit trafficking in drugs and precursors, as well as of money laundering and other criminal activities. The purpose is to break the technological and financial links in the chain of the contemporary drugs industry in Afghanistan and to create a single system comprising anti-drugs and financial security belts. In that regard, we support the appeal for comprehensive implementation of resolution 1735 (2006), including with respect to individuals who use resources derived from the illicit trafficking of drugs and precursors to support terrorist groups.

We also support the resolution's important provision related to enhancing the role of regional organizations in international efforts to counter the flow of Afghan narcotics and to control precursors. Successful counter-narcotics operations undertaken with the participation of the Collective Security Treaty Organization, a wide array of its international partners and the Afghan authorities show the importance of tapping the potential of regional organizations. It is our view that pooling the efforts of the Collective Security

Treaty Organization and the NATO-led International Security Assistance Force could have a significant positive effect.

Mr. Mantovani (Italy): We welcome the adoption by consensus of this important resolution on an issue of the greatest concern, related to counter-narcotics in Afghanistan, thanks to the initiative of the French delegation. We are confident that this step will give political impetus to the fight against the illicit trafficking in precursors in Afghanistan, in particular through stricter implementation of existing obligations under the relevant United Nations conventions. We are pleased with this further demonstration of the cohesion of the Council in addressing the situation in Afghanistan. That cohesion is based on common strategic interests that go beyond the issue under consideration today.

It is also important that Afghanistan and the other countries of the region were extensively consulted in the preparation of this resolution. Every relevant actor should feel comfortable with the content of the resolution. Furthermore, we welcome the strong link established in the text between this initiative and the crucial role played by existing bodies and agencies. I refer in particular to the Commission on Narcotic Drugs of the Economic and Social Council; to the 1988 Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and its treaty body, the International Narcotics Control Board; to the Paris Pact; and to the United Nations Office on Drugs and Crime. To achieve success in this field we need an integrated approach within the United Nations system.

Finally, we hope that the adoption of this resolution will galvanize the discussions on this issue at tomorrow's Paris conference on Afghanistan. Obviously, there will be many more crucial topics to be discussed in Paris. We will soon propose for the consideration of the Council further possible actions to reflect and acknowledge the outcome of the conference.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 11.25 a.m.

United Nations S/PV.5908

Security Council

Sixty-third year

Provisional

5908th meeting

Thursday, 12 June 2008, 7.30 p.m.

New York

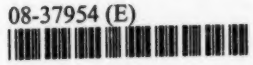
President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Grauls
	Burkina Faso	Mr. Koudougou
	China	Mr. La Yifan
	Costa Rica	Mr. Weisleder
	Croatia	Mr. Skračić
	France	Mr. Lacroix
	Indonesia	Mr. Kleib
	Italy	Mr. Mantovani
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Panama	Mr. Suescum
	Russian Federation	Mr. Demin
	South Africa	Mr. Kumalo
	United Kingdom of Great Britain and Northern Ireland	Mr. Collard
	Viet Nam	Mr. Dang Hoang Giang

Agenda

Peace and security in Africa

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

08-37954 (E)



The meeting was called to order at 7.30 p.m.

Adoption of the agenda

The agenda was adopted.

Peace and security in Africa

The President: I should like to inform the Council that I have received a letter from the representative of Djibouti, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Olhaye (Djibouti) took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2008/381, containing a letter dated 9 June 2008 from the Permanent Representative of Djibouti addressed to the President of the Security Council.

After consultations among the members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council expresses its strong concern about the serious incidents that occurred on 10 June along the frontier between Djibouti and Eritrea, which led to several deaths and dozens of wounded.

"The Security Council condemns Eritrea's military action against Djibouti in Ras Doumeira and Doumeira Island.

"The Security Council calls upon the parties to commit to a ceasefire and urges both parties, in particular Eritrea, to show maximum restraint and withdraw forces to the status quo ante.

"The Security Council urges both parties, in particular Eritrea, to cooperate and engage in diplomatic efforts to resolve the matter peacefully and in a manner consistent with international law.

"The Security Council welcomes the efforts of the African Union, the Arab League and those States that have offered their assistance and calls upon the parties, in particular Eritrea, to engage fully in efforts to resolve the crisis.

"The Security Council encourages the Secretary-General urgently to use his good offices and reach out to both parties, as appropriate and in coordination with regional efforts, to facilitate bilateral discussions to determine arrangements for decreasing the military presence along the border and to develop confidence-building measures to resolve the border situation."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2008/20.

The Security Council has thus concluded the present stage of its consideration of the item on the agenda. The Security Council will remain seized of the matter.

The meeting rose at 7.35 p.m.

United Nations S/PV.5909

Security Council

Sixty-third year

Provisional

5909th meeting

Friday, 13 June 2008, 10 a.m.

New York

President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Grauls
	Burkina Faso	Mr. Kafando
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Weisleder
	Croatia	Mr. Jurica
	France	Mr. De Rivière
	Indonesia	Mr. Natalegawa
	Italy	Mr. Spatafora
	Libyan Arab Jamahiriya	Mr. Ettalhi
	Panama	Mr. Suescum
	Russian Federation	Mr. Churkin
	South Africa	Mr. Sangqu
	United Kingdom of Great Britain and Northern Ireland	Mr. Quarrey
	Viet Nam	Mr. Le Luong Minh

Agenda

Non-proliferation

Briefing by the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006)

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08-38021 (E)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

Non-proliferation

Briefing by the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006)

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Ambassador Jan Grauls, Chairman of the Security Council Committee established pursuant to resolution 1737 (2006). I now give the floor to Mr. Jan Grauls.

Mr. Grauls: This is the sixth 90-day report to the Security Council in accordance with paragraph 18 of resolution 1737 (2006). The report covers the period 18 March to 13 June 2008, during which the Committee held three sessions of informal consultations. The Committee also carried out its work outside the meeting room, using the silence procedure.

As members will recall, by its resolution 1803 (2008) of 3 March, the Security Council adopted additional measures relating to the Islamic Republic of Iran. Subsequently, in informal consultations on 18 March and 15 April, the members of the Committee discussed a revised text of the guidelines of the Committee for the conduct of its work, with a view to incorporating the relevant provisions of resolution 1803 (2008). On 24 April, the Committee approved the revised guidelines.

In those same consultations, given that the names of individuals and entities subject to the travel ban, travel notification requirement and/or assets freeze were available to Member States in the annexes to three separate resolutions and not in any one place, the members of the Committee discussed consolidating those annexes into a single list. The Committee approved the consolidated document on 24 April. Both the revised guidelines and the consolidated list of individuals and entities have been transmitted to all Member States; they are also available on the Committee's website.

In paragraph 13 of resolution 1803 (2008), the Council called upon all States to report to the Committee within 60 days of the adoption of the resolution, that is to say, by 2 May, on the steps they had taken with a view to implementing effectively paragraphs 3, 5, 7, 8, 9, 10 and 11 of the resolution. On 27 March, my predecessor, in his capacity as Chairman of the Committee, transmitted a note verbale to all Member States drawing their attention to paragraph 13 of the resolution. The note verbale also served as a reminder to States that had not yet reported under paragraph 19 of resolution 1737 (2006) and/or paragraph 8 of resolution 1747 (2007) to do so. Those States have the option to submit a combined report under two or all three resolutions, if they so desire.

To date, the reporting figures are: 89 reports under resolution 1737 (2006), 76 reports under resolution 1747 (2007) and 51 reports under resolution 1803 (2008). Unless a State requests that its report be kept confidential, the report is published and posted on the Committee's website. I wish to add here that, in response to the suggestion made by the Ambassador of Burkina Faso during the last briefing to the Security Council, as well as to requests received from other Member States, members of the Committee agreed to post an informal guidance paper on the Committee's website in order to assist Member States in writing their national reports. The informal paper has been reviewed by the members of the Committee but has not been endorsed by the Committee. The use of the informal paper is entirely optional.

As members will recall, paragraph 14 of resolution 1803 (2008) broadened the scope of the Committee's mandate as set out in resolution 1737 (2006) to also include measures imposed in resolutions 1747 (2007) and 1803 (2008). In informal consultations on 28 April, it was brought to the Committee's attention that, as reported in the media, one Government had made a public statement that there had been a contravention of resolutions 1747 (2007) and 1803 (2008) on its territory, with respect to the export ban on arms and related material from Iran. Subsequently, the Committee approved the dispatch of letters to the concerned States seeking clarifications and additional information.

I shall now turn to action taken by the Committee under resolution 1737 (2006).

Paragraph 13 (b) of resolution 1737 (2006) provides an exemption to the assets freeze for extraordinary expenses, as determined by the relevant States and subject to a Committee decision. The Committee granted two requests for exemption under that paragraph. Paragraph 15 of resolution 1737 (2006) provides for notifications by the relevant States to the Committee of the intention to make or receive payments or to authorize the unfreezing of funds in connection with contracts entered into prior to the listing of persons and entities in the annexes to resolutions 1737 (2006), 1747 (2007) and 1803 (2008). The Committee received one such notification.

Paragraph 18 (b) of resolution 1737 (2006) tasks the Committee with seeking from the International Atomic Energy Agency (IAEA) secretariat information regarding the actions taken by the Agency to implement effectively the measures imposed by paragraph 16 of the same resolution, which defines the scope of the technical cooperation provided by the IAEA to Iran, and whatever further information it might consider in that regard. On 27 March, given that more than seven months had passed since the receipt of the initial update, on 22 August 2007, to the report of the IAEA of 9 February 2007, the Committee invited the Agency to provide a further update to that report. By a letter dated 18 April 2008, the IAEA informed the Committee that no projects had been added to its technical cooperation programme with Iran since the issuance of its report and provided an update on technical cooperation and technical assistance activities since 22 August 2007. Three requests for technical cooperation had been considered to be covered and had proceeded; two others had not. Forty-four requests for participation in technical assistance activities had been deemed to be in conformity with resolution 1737 (2006), whereas a further eight requests had not.

Lastly, the Committee has pending before it three written queries from Member States concerning the implementation of various provisions of resolution 1737 (2006) and resolution 1803 (2008).

The President: I thank Ambassador Grauls for his briefing. I shall now give the floor to members of the Security Council.

Mr. De Rivière (France) (*spoke in French*): I would first of all like to congratulate Ambassador Grauls on his assumption of the chairmanship of the Committee established pursuant to resolution 1737 (2006). It is an important task, which Ambassador Verbeke performed in an outstanding manner. We have every confidence that Mr. Grauls will do likewise. We assure him of our full cooperation.

More than three months have passed since the adoption of resolution 1803 (2008). We are very concerned about indication in the last report of the Director General of the International Atomic Energy Agency that Iran has still not met any of its obligations. In particular, that report indicates that Iran has not appropriately responded to the questions asked of it about one of the most dangerous aspects of its programme: the work on militarization. Since 3 June, Iran has been in violation of resolution 1803 (2008).

However, the E3 + 3 have made every effort possible to renew dialogue with Iran. It has now been five years that a series of increasingly generous offers have been made to Iran, without the slightest indication of interest on its part. Nevertheless, tomorrow, Javier Solana and five political directors from the E3 + 3 will, with the support of the United States, visit Tehran to once again present the Iranians with a proposal for negotiations. The ball is now in their court. We very much hope that they will have the wisdom to quickly seize the hand that is being extended to them.

Beyond the issue of Iran, we all of us have an individual responsibility to implement resolutions. In that regard, I would like to emphasize that cases of violations have been brought to the attention of the Committee. It is up to everyone to take the necessary measures to ensure that such cases do not happen again.

Finally, we hope that, in the future, the Committee will continue to play its full role as guardian of the resolutions and help States to ensure that they fully respect them.

Mr. Quarrey (United Kingdom): We too thank Ambassador Grauls for his report and welcome him to his new responsibilities as Chairperson of the Committee established pursuant to resolution 1737 (2006). The delegation of the United Kingdom will give him its full support.

I would also like to take this opportunity to welcome the significant work undertaken in the Committee since the Council last met, including: first, the updating of the Committee's guidelines to take into

account its responsibilities under resolution 1803 (2008); secondly, the preparation of the single document bringing together in one place the individuals and entities listed under the three resolutions; and, thirdly, in response to the ideas raised in this Chamber by Ambassador Kafando the last time we met, the preparation of the informal guidance paper on reporting to the Committee.

We consider resolution 1803 (2008) to be the continuation of the Council's incremental and proportionate approach to the Iranian nuclear issue, gradually increasing the pressure on Iran to address widely shared concerns about its nuclear programme. That resolution once again reiterates our wish to achieve a negotiated solution.

Three steps are required of Iran. The first is that Iran suspend all its enrichment-related and reprocessing activities. Iran continues to flout the legally binding Security Council requirement for such a suspension. The second is that Iran implement fully the additional protocol and the additional measures that the International Atomic Energy Agency (IAEA) has requested. Without that, the IAEA continues to be unable to provide assurances about the absence of undeclared nuclear materials and activities in Iran; nor can it determine whether the nature of Iran's programme is exclusively peaceful. The third is that Iran resolve outstanding issues of concern to the IAEA by delivering fully on all the issues that remain outstanding under the work plan agreed between it and the Agency.

Mr. ElBaradei's most recent report demonstrated that Iran has failed to make any progress on those three issues. It also set out the information it had about activities with a possible military dimension, including activities associated with the design of a nuclear warhead. The report noted that these activities were a matter of serious concern and that it was critical that Iran clarify them in order to assess the nature of its programme.

It is worth recalling that Iran has received a generous and far-reaching offer in return for taking these steps. On 3 March of this year, the Governments of the United Kingdom, France, Germany, China, the Russian Federation and the United States reiterated their offer of dialogue and engagement. In that statement, the six Governments said,

> "We call upon Iran to heed the requirements of the United Nations Security Council and the IAEA, including the suspension of its enrichment-related and reprocessing activities.
>
> "We remain committed to an early negotiated solution to the Iranian nuclear issue and reaffirm our commitment to a dual-track approach. We reconfirm the proposals we presented to Iran in June 2006 and are prepared to further develop them. Our proposals will offer substantial opportunities for political, security and economic benefits to Iran and to the region". (see S/PV.5848)

We remain committed to that approach. This weekend, as our French colleague has noted, Mr. Javier Solana, the European Union's High Representative for Common Foreign and Security Policy, will be in Tehran with concrete proposals in that sense. We very much hope that the Government of Iran will meet the requirements of the IAEA Board of Governors and this Council and will take up the offer carried by Mr. Solana.

The President: I shall now make a statement in my capacity as the representative of the United States.

Three months ago, this Council adopted resolution 1803 (2008) to impose additional sanctions on Iran. These sanctions as well as those adopted earlier by the Council in resolutions 1737 (2006) and 1747 (2007) are designed to discourage and halt Iran's pursuit of technologies that would provide it with a nuclear-weapons capability. With that in mind, I would like to make five points.

First, we welcome the report of the Committee Chairman and are pleased to note the important activities being pursued by the Committee. We welcome the fact that many States have submitted the reports required by the aforementioned resolutions and we encourage all States that have not yet done so to provide their reports to the Committee as soon as possible.

We also reiterate the Council's call upon all States to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran, in particular with Bank Melli and Bank Saderat and their branches and subsidiaries abroad.

Secondly, we note with great concern the 26 May 2008 report of the Director General of the International Atomic Energy Agency (IAEA) concerning Iran's continuing non-compliance with resolutions 1737 (2006), 1747 (2007) and 1803 (2008). Most disturbing is that Iran continues to defy the Security Council and has not suspended its uranium enrichment- and heavy water-related activities. Instead, Iran has expanded its installation and operation of new centrifuges and is testing advanced centrifuge designs using nuclear material. Iran has also continued the construction of a new IR-40 reactor.

Thirdly, long outstanding questions about Iran's past nuclear activities, including those that indicate Iran's efforts to develop a nuclear warhead, remain unanswered. IAEA Director General ElBaradei stated clearly that Iran must provide "substantive explanations" for these activities and that it is essential that Iran provide all requested information, clarifications and access outlined in the report without further delay.

Fourthly, we expect Iran to comply with its international obligations concerning its nuclear activities, including the full and verifiable suspension of its proliferation-sensitive nuclear activities and full cooperation with the International Atomic Energy Agency, and to implement the Additional Protocols. Only through all of these steps can Iran begin to establish confidence that the nature of its nuclear programme is exclusively peaceful. Iran must provide to the IAEA full disclosure of any weapons-related work and allow the IAEA to verify that any such work has ceased.

Fifthly, we affirm the dual-track strategy on this issue, which is reinforced by the updated P-5+1 package that will be delivered to Iran in the near term and reiterate our belief that a mutually satisfactory negotiated solution remains open to Iran. At the same time, all Member States must implement robustly their obligations under Security Council resolutions 1737 (2006), 1747 (2007) and 1803 (2008), as well as other pertinent resolutions. The Council should stand ready, in accordance with the stated intention in resolution 1803 (2008), to supplement those sanctions with additional measures.

I resume my function as President of the Council.

There are no further speakers inscribed on my list.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 10.35 a.m.